GOVERNMENT BILLS—*contd.*

(1) The National Investigation Agency Bill, 2008
(2) The Unlawful activities (Prevention) Amendment Bill, 2008

THE MINISTER OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): I move:

"That the Bill to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organisations and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration."

And

I also move:

"That the Bill further to amend the Unlawful Activities (Prevention) Act, 1967, as passed by Lok Sabha, be taken into consideration."

Sir, the National Investigation Agency Bill and the Unlawful Activities (Prevention) Amendment Bill have been adopted by the Lok Sabha with some amendments and the Bills, as amended by the Lok Sabha, are before this House. Sir, I may say, with deep sense of gratitude, the Lok Sabha adopted these Bills unanimously. There was one amendment which was voted out. Otherwise, the Bills were adopted unanimously. The reason is, in our consultations with the major political formations in Parliament, they have extended support to the idea and to the content of the Bills.

Sir, I know that there are sections which have reservations to one or two aspects of the Bill. These reservations, I believe, are genuine reservations, genuine concerns. I think, in course of time, when this law is applied and worked, we will know whether the law is working well or whether these reservations deserve to be addressed.

The NIA Bill itself is a very simple Bill. It sets up the National Investigation Agency. There are only eight acts in the Schedule in respect of which the Agency is empowered. The first information will be registered in the police station and, then, forwarded to the State Government; the State Government shall, forthwith, forward it to the Central Government. The Central Government may, having regard to the gravity of the offence and other relevant factors, direct that the case be taken up with the NIA. Otherwise, the case remains with the State Agency. Even if the NIA takes up the case, there is a provision which says: "If it is expedient to do so, it may associate the State Agency with the investigation." There is also a provision which says: "If, after some time, it feels that the case can be returned to the State for investigation, the NIA may return the case to the State for investigation." There is a provision for setting up of a Special Court. We have said that the Chief Justice will nominate the Special Judge and the case shall be

tried on a day-to-day basis. The superannuation of the Judge shall not interrupt the trial. In fact, he can be allowed to continue until the trial is completed or until a specified date.

And with these, Sir, I think, it is felt necessary that there should be an investigating agency, and I hope that the entire House will support the establishment of NIA to investigate those offences. Appeals against the orders of the Special Court will lie with the Division Bench of the High Court and the appeals should be disposed of within three months.

Sir, the other Bill, the Unlawful Activities (Prevention) Amendment Bill, 2008, is, if I may say, an attempt to balance the two conflicting interests, apparently conflicting interests. The one interest is that the State must be armed with strong laws; the Investigating Agency must have arms; the prosecution must be confident that if it marshals the evidence and places it before the Court, it can secure a conviction of the accused. That is one interest of the State, one interest of the people.

The other interest is that human rights are fundamental and basic. A fair procedure, and to be tried fairly, is part of personal liberty; and no man's personal liberty can be taken away except according to the procedure established by law. It is, simply, not a mechanical procedure, but substantive due process. Therefore, balancing the interests by strong anti-terror laws and having the need to protect the fundamental human rights of persons, including the accused, we have drafted this Bill and, I am sure, the Members who are going to speak will support it. The Minister, Mr. Ashwani Kumar, will intervene, and the Minister, Mr. Kapil Sibal will also intervene, if necessary. They will explain the provisions of the Bill. But, broadly, what we are doing is imposing restrictions on the power to grant bail. We are introducing a provision of drawing a rebuttable presumption in certain cases and requiring that before prosecution is actually sanctioned, the executive Government must take the recommendation of an independent authority who will review their writs. So, we are strengthening the law, but, at the same time, are also providing the safeguards.

While closing the debate, I shall reply, in greater detail, if necessary. The provisions are self-explanatory, and, I am sure, all hon. Members have read the Bill. I request that both Bills be passed as adopted by the Lok Sabha. I will only conclude by saying that it is important that we show unity of purpose and unity in action. There is no better way to demonstrate this unity than to unanimously vote in favour of this Bill. Please express your reservations; please express your concerns. We will deal with those reservations and concerns to the best of our ability. We will revisit the provisions, if necessary, when we meet again in February. But, today, let the House unanimously approve these two Bills as passed by the Lok Sabha. With these words, I commend these Bills and ask the House to consider and pass them. Thank you.

SHRI ARUN JAITLEY (Gujarat): Mr. Deputy Chairman, Sir, I am extremely grateful to you for permitting me to speak on these two Bills, the first seeking to create a National Investigation Agency and the second Bill amending further certain provisions of the Unlawful Activities Act.

Sir, I must confess that I speak with a mixed feeling. The mixed feeling is that my party and others who support us could derive, at some stage, some sense of satisfaction that, at least, in some areas, if not all, what we have been very strenuously saying for the last four years and seven months that a strong legal mechanism also required to investigate and punish terrorism. The reason and rationale that we have set out for this, at least, a large part of what we have said, has now been finally accepted by the Government. We might even get some satisfaction from the fact that most of the arguments which were used to repeal the erstwhile anti-terror law, POTA, are now proving to be spurious. We can also get satisfaction, as a country, from the fact there is a near unanimity, both within the country and outside, as well as, in this House and in the Lok Sabha, that these two legislations are required. But we are, at the same time, concerned about the fact that the measures which the Government have taken are still not strong enough and still falls short in a large measure as a legal mechanism for fighting terror. Sir, we are also concerned and, I am sure, every Indian is concerned about the fact that what has brought this consensus is not really the sound and strong logic that we have been giving to this Government for more than four-and-a-half years now. Where reasoning failed, where our rationale failed, I think, the ten evil men who entered Mumbai on 26th November and shook the conscience of the whole country succeeded in persuading the Indian society that India can no longer afford to be a soft State and must finally start adopting hard measures if it is really serious about combating and fighting terrorism.

Sir, I remember that there were different reasonings given why India did not need a strong anti-terror law. When POTA was repealed — I was looking back at the debates — and even when it was first introduced — I was reading the debates — the country was repeatedly told by the opponents of a strong anti-terror law that a strong anti-terror law is not *per se* against terrorism, it is against minorities. The country was told that normal laws in India are enough to tackle terror and when you have so many normal laws why you need a special law to tackle terror. The third reasoning made out was that a special anti-terror law *per se* would be opposed to the constitutionally guaranteed rights and, as a Republican Constitution, we can't afford to have a strong anti-terror law. We were then told that there is a huge scope for misuse and abuse of this law and since there is a scope for misuse and abuse of this law, it is much better to go by the normal laws and not have this law.

Lastly, Sir, an argument was repeatedly raised and I have seen a large number of my friends raising this argument till the other day in and out of this House that anti-terror laws don't prevent terrorism; despite POTA, an attack could take place on Akshardham, an attack could take place on Parliament. Since despite an anti-terror law, attacks can still take place by terrorists, what is the point in having a special anti-terror law? Sir, I repeat that the ten evil men who entered Mumbai on 26th November have shaken all these fundamental assumptions on the basis of which a strong anti-terror law was being opposed. Today, with the kind of measures which have

been announced, plus some additional measures which have still not been taken by this Government in this law, it appears that the Government now also believes that all these assumptions, which were being given to oppose the strong antiterror law, were really spurious assumptions; they were fallacious assumptions.

Sir, it is obvious to anybody who understands how a fight against terror and insurgency can take place that a battle against terrorism is not fought in the courts of law. Terrorism is not something that can only be fought through legislation. An anti-terror law is never asubstitute for a strong preventive intelligence. An anti-terror law is never a substitute for a strong security action and a quick reaction commando action against terrorism itself. To fight terror you need a large number of steps. If it is cross border terrorism, if it is internationally engineered terrorism, you, perhaps, need a global consensus. You may even take foreign policy initiatives and work for a global consensus for sanctions against countries and States which encourage terrorism. You require a very strong intelligence network to fight terrorism, not only within your own country, you require a strong intelligence network which infiltrates into the enemy camp and pre-warns you of what is likely to happen. Then you require that intelligence to be shared with those who require that adequate intelligence information for the follow up action to be taken which, at times, we find we are lacking in not taking that. What do we do to our security responses? The law is not relevant. Our quick security responses, our immediate security responses really determine it because if we take action after hours, the terrorists have already won. They have created a global impact; they have created a national impact. Therefore, these are essentials which are required to fight terrorism. An anti-terror law or a machinery to investigate terrorism, whether it is a Central agency or a State agency, comes into the picture not as an agency or a law which can prevent the act of terrorism, it is not an agency which can really start distributing intelligence all over the country, it is not an agency which will *per se* have a security force at its disposal to prevent terrorism, that has to be done by the various agencies which are earmarked for this purpose. The law and the agency comes into the picture, either just about when an act is being planned or when an act has just been committed. Therefore, for the purposes of collection of evidence, investigation of that crime, punishment of the criminal, you need a law and you need an agency which is effective.

You need a law which can adequately collect that evidence, which can bring out that evidence and put it at the disposal of the prosecuting agencies. Then, the conviction of those involved in acts of terrorism becomes simpler and easier, so that your conviction rate goes up. And, when your conviction rate in terrorist offences goes up, then, it is a deterrent for those, who commit acts of terrorism, not to indulge in those acts. The preventive impact of this law is that it reflects the determination of the Government and the Indian State in fighting terrorism, and the Indian State is then adequately equipped in terms of law, to investigate the crime and expeditiously punish those who are responsible for that crime. As I said, the battle against terror

is never fought exclusively in courts or through legislation. You have to first equip the minds of the Government and the agencies of the Government. It is in the hearts and minds of the people of India that they must get ready, that we are a State, which is on the terrorist radar, and, therefore, we must equip ourselves to fight terror. It is through these Acts that the determination of the Indian State, in fighting terror, is expressed. Unfortunately, 95 per cent of the tenure of this Government is over, and that 95 per cent of the tenure of the Government had been spent in convincing each one of us as to why a strong terror was not required, and different arguments, as I have already explained, were advanced to establish that these were not essentials which were required, and an effort was being made to dilute the whole thing. I am afraid even though the Home Minister's Bill indicates to the contrary what some of his colleagues have been saying, it still indicates, and that is where we are concerned about, that the battle against terrorism is to be diluted because they think that the battle may prove to be politically costly, and, therefore, the vote bank signal, which has to be given, is to the contrary...*(Interruptions)*... Yet, I don't think it is a matter where any one of us can really be amused because the argument really is that when you have both Houses of Parliament debating on this Bill, at the same time, you have a colleague of the Home Minister, making a statement yesterday, which was flashed on all front pages of the newspapers of our Western neighbour, and the blogs coming out of Pakistan were full of it saying, "Look; we always said so." Now that is the signal which I am referring to. And the Government, spent 95 per cent of its recent tenure giving this signal rather than taking substantive steps in fighting terrorism. Sir, even though we found some aspects of this law to be inadequate, — my party had announced very categorically that we would support these Bills — even though we said that these were only half-a-step, we would support this half-a-step against terror but would continue to campaign for the other half, the seriousness of which the Government may not have realised. I am conscious of the fact of what the newspaper reports that the Home Minister couldn't really be blamed for it, if they are to be believed, it indicates that he tried his best to get some more provisions, but some of his colleagues were, perhaps, concerned with the forthcoming elections rather than the security considerations which are in-built in those provisions.

SHRI P. CHIDAMBARAM: If Shri Arun Jaitley yields, I would like to say that unfortunately, sometimes, our newspapers report wrongly. The Bill, that was brought by my Ministry, by me, to the Cabinet, is exactly the same version that was introduced in Lok Sabha. Nothing was added; nothing was deleted. The Cabinet unanimously approved the draft that I brought.

SHRI ARUN JAITLEY: Unfortunately, we have a Cabinet which has too many spokesmen. Each ally of the Government seems to be taking credit for diluting this Bill. Sir, I am glad that the Home Minister has clarified these because then, I would like to withdraw the little compliment that I gave him, when I thought that, at least, he had realised the seriousness and the gravity of

the situation and tried to bring in something which he honestly admits that he did not bring it. Sir, in order, therefore, my primary task would be to convince him so that he can convince his colleagues as to what further is required to be done, as far as these laws are concerned.

Sir, in order to just simplify the issue, let us, for a moment, before I go into the abstracts of what is required and what is already there, just discuss and place before this House that what is the essential which is required in the investigation of a terrorist offence? A terrorist offence per se is not like an ordinary crime where eyewitnesses would be easily available. A terrorist offence per se will have conspiracies, at times, which are hatched in foreign soils. You will have some people, the *fidayeen*, the *jehadi* terrorists, the suicide squads who are not scared of dying, who are not scared of the prohibitions contained in the law, who are not even scared of the consequence of the law. Therefore, you will always have a larger conspiracy behind the apparent terrorist acts. We can analyse anyone of the terrorist cases which have recently taken place. Let me just point out a glaring terrorist case, recently took place in Mumbai on 26th of November. On the surface, ten terrorists came by the sea route, attacked various vital places in Mumbai. Nine out of the 10 are killed, one is arrested. What happened in Mumbai is extremely easy for the Indian police to prove. You have eyewitnesses; you will have various other evidences; you will have reports of experts, and it won't be a difficult task for an Indian investigative agency to prove it against those ten. But, nine out of the ten are, unfortunately, not there. It is a rare case that a terrorist has been caught alive. Ordinarily, they are not caught alive. But, the real conspiracy is not merely of those ten. The real conspiracy in this case is, and that is where the law is lacking, who were the people who trained these ten across the border? There were obviously some training camps where for a year or a year-and-a-half, these people were given extensive training; funds were made available to them; their families were assured that monies would be given to their families, in case anything happened to them; weapons and equipment were supplied to them; RDX was supplied to them. It is possible that such an operation could not have been carried without the support of the official agencies. Who were these people who organised the entire conspiracy across the border? Pakistan is living in denial. Their High Commissioner made a Statement yesterday, their Foreign Minister made a Statement yesterday that Masood Azhar is not in Pakistan, conflicting what had been said earlier. Pakistan as a State which is living in denial will continue to deny it. Pakistan does not seem to be in a mood to render cooperation. Therefore, the responsibility is ours, the onus is on us to prove the Pakistan link and the Karachi limb of this conspiracy. Now, the terrorist who has been caught alive is speaking. His statements are being published, and his statements are being shared with the entire world. But, under this law, with adequate safeguards, and I underline and re-emphasise the word 'adequate safeguards', if Kasab's Statements to the investigating agencies are not evidence, then, we may well be reading just a news in a newspaper which is not evidence in a court of law. And Pakistan would then turn around and say, "What Kasab is saying

3.00 P.M.

is not evidence under your own law, in your own country, how do you want the international forum make it as evidence against me?" Let us move a little backwards. One of the most glaring cases in India is of the late Shri Rajiv Gandhi who was assassinated. When Shri Rajiv Gandhi was assassinated, TADA was in force. Though eventually the Supreme Court did not convict them under TADA because of some interpretation of the definition of TADA, but the Supreme Court still applied the rules of evidence of TADA. The lady with a human bomb killed Shri Rajiv Gandhi on the spot. The actual killer died on the spot. 50,000 people witnessed that killing. Yet, when the matter came to court, our SIT went to the first conspirator, those who supplied the vehicles, those who supplied the arms, those who supplied the shelter, those who harboured them, and those who planned the conspiracy; our SIT got all of them. Our SIT did a remarkable job in reconstructing the whole crime. And, finally, just as we do not have any eye witnesses of what happened in Karachi or the terrorist training camps, the SIT did not have any eye witnesses of what the conspirators were doing behind the closed doors. Conspiracies are hatched in darkness. They are behind the closed doors, they do not leave eye witnesses behind.

So, it is only when the first conspirator sang, the second conspirator spoke; their evidence under TADA became admissible evidence and the conviction of the other accused in the Rajiv Gandhi assassination case took place only because of the admissibility of those confessions. Take those confessions out, and this country would have been a laughing stock where a former Prime Minister is assassinated in front of 50,000 people and you would not have a conviction in the case! The actual assassins had died on the spot.

Take the Parliament attack case. The five actual persons who attacked the Indian Parliament died within this premises itself. It is the conspirators who were arrested. The most material evidence against the conspirators is those who spoke—the first and the second men who were arrested. This is not only in this case, I will come to it a little later; what is it which requires a strong anti-terror law? I always tell my friends in the Government that when India is on the terrorist radar, you do not have to be apologetic about India having a strong anti-terror law. We are supporting this Government on the anti-terror law. But the difference between the ruling benches and the opposition this time is, the opposition is supporting this Bill as a national necessity and the ruling party is still embarrassed and is apologetic about having brought this Bill! That is the difference. It is a strange dichotomy in the Indian democracy which has taken place. We are more enthusiastic about what the Government is bringing, this type of Bill! Now, you require an antiterror law, and the Government had repealed the POTA. But, then their security experts told them, "Why are you making India so vulnerable?"

Sir, I did an exercise as to what was there in POTA. Of course, I am conscious of the fact that such a remedy is not available; but, if for hijacking or copying an Intellectual Property,

an action was available; I think, the NDA had a strong case against the UPA. We drafted a law, they said, "It is a horrible law and we will repeal it', then took a scissor and started a cut-and-paste exercise by culling out provision by provision from POTA, and word by word, full stop by full stop; and if we had left the grammatical mistake somewhere, along with that grammatical mistake they started incorporating it in the Unlawful Activities Prevention Act. I just started comparing the features; on the language, the verbatim language is the same. The law must define terrorism; they had repealed POTA which defined terrorism; so, they picked up that definition and put it in the Unlawful Activities Prevention Act.

POTA was criticised because it had an extraterritorial application. Obviously it is needed because if one limb of the conspiracy takes place in Pakistan, the anti-terror law will have its extraterritorial application. So you brought it back by 2005 amendment. The quantum of punishment required under POTA, you picked it up and brought it back. Now, besides an act of terrorism we said whoever abates terrorism, whoever incites terrorism will also be an offence, though a lesser offence, they picked up the language, pasted it in another law; harbouring terrorists, they picked up and pasted in another law; membership of a terrorist organisation, again picked up from POTA verbatim and put in another law. Confiscation of proceeds of terrorismnow, this was based on a salutary principle that no person can benefit from profits of crime. You commit a crime and out of the profits of that crime you buy a house or you open a bank account where you keep money, so, that properties will be confiscated if they are out of terrorist funds or those will be confiscated, they said it is a very good concept let us put it back. If you threaten witnesses in a terrorism case, that also is an offence — verbatim taken and put in the Act. Declaration of an organisation as a terrorist organisation — picked up the provisions verbatim and put them in the other Act; special laws — picked up the Sections and placed them in another Act. And then let me compliment — the Home Minister is not here, Mr. Sibal is here and Mr. Sibal's favourite argument is that my law is better than your law, so the remand period being provided ....

THE MINISTER OF SCIENCE AND TECHNOLOGY AND THE MINISTER OF EARTH SCIENCES (SHRI KAPIL SIBAL): Wait till my argument.

SHRI ARUN JAITLEY: Mr. Sibal's argument, which I have been answering for the last four-and-a-half year, is that special law is not required. Mr. Sibal is a man of principles. You see, he opposes an anti-terror law on republican principles, brings this law on the principles of preserving national sovereignty. In any case, he stands by those principles and he will justify his principles at all stages ...*(Interruptions)*...

SHRI KAPIL SIBAL: Republicans are not against national sovereignty.

SHRI ARUN JAITLEY: I think in that event with all these provisions had to be brought back...*(Interruptions)*... If all these provisions had to be brought back, there was no need why India should be made so vulnerable for four years and seven months. ...*(Interruptions)*... For

four years and seven months you made this country vulnerable and then you decided to bring the same law back. ....*(Interruptions)*... Then, Sir, the said, well, there is a remand period mentioned in the old law, we will have a discretion for larger remand period. Well enough, because if the investigation does not conclude in 90 days, you may require 180 days and therefore, you may require to get evidences internationally, you may have to send letter rogatories across the globe to get evidences, you may have to get people extradited other countries, therefore, longer period of investigation will be required Therefore, they put a provision of giving some element of flexibility, yes, longer remand is required. It is a correct provision in law, I have no difficulty with that. On dozens of occasions we have been told in this House that you turned the law upside down by shifting the onus of proof. There are no presumptions, which are available. Now the presumptions available in POTA have been exactly brought back. And what are those presumptions? The Evidence Act has those presumptions. There is a chapter on presumptions in the Evidence Law that if a weapon is found in your possession, the presumption is there unless you disprove the fact it is not yours. The fingerprints found in a vehicle, on the steering wheel of a vehicle, which is used for terrorist offence, the presumption is you have used that vehicle, the onus is on you that you have not used that vehicle. Section number has been altered, Sir, that presumption now is back. Confiscation of passport, setting of review committees, in fact, POTA had a very interesting safeguard with regard to intercepts.

Obviously, a large part of criminal law investigation these days are done on the strength of taking telephonic conversation and intercepts. Now, doubt arose whether these are admissible evidence. But POTA provided a safeguard. The safeguard under POTA was, if a police officer wants to intercept, then, from the competent authority he must take sanction and every fortnight the Review Committee headed by a judge will certainly get the total record of people whose intercepts have been made and these intercepts will be admissible evidence in a court. You went a step a further. You said no sanctions are required. The intercepts from wherever you get are admissible evidence. Well, the police was facing a difficulty. If you want to go that far I have no difficulty, we will support you even on that. But don't be apologetic on the fact that India didn't need a strong anti-terror law. It is an admission of the fact that you made this country vulnerable for four years and seven months and now you come back to say, 'well, India does need a special law. You cannot fight terror with ordinary laws.' Sir, there were two vital provisions left out and the two vital provisions are one with regard to special bail provisions and the second with regard to confessions. Sir, as far as bail provisions were concerned, under your normal criminal law you have the bailable offences, the non-bailable offences where the discretion is with the court. There are special laws in which the discretion of the court in granting bail is further reduced. The court can't grant bail till a public prosecutor has been noticed and if the court comes to an opinion at the stage of bail, that prima facie the case is true or prima facie the case is not false,

just a prima facie view, the court will not grant bail. Now, we had been repeatedly saying you require a stronger provision because once a terrorist gets bail and if he is an international *Jihadi*, after getting bail he is not going to come back and say, 'well, I am coming back for the purposes of getting executed in India.' So, he is certainly going to jump bail. Therefore, why do you not have special provisions with regard to bail? Now, the present law has brought that provision back. But, then, the UPA is not NDA, so you have to be different. The earlier law said prima facie the case against him is not true. The judge will not grant bail. You said he would not grant bail if he were proved that *prima facie* the case against him is true. So, one had a direct mention and the other alternative as double negatives. The two mean exactly the same. You said, 'well, we have a different bail provision now and you brought back and there is nothing wrong in this bail provision. Sir, I have just prepared a list. TADA had this bail provision. POTA had this. But, besides an anti terrorism law there are at least 12 laws in India which have the same bail provisions. The MACOCA has the same bail provision, the Andhra Pradesh and the Karnataka Organised Crime Laws have the same provision but the Government said we are against these organised crime laws so we are not allowing some BJP ruled Governments to have those laws. But, your Narcotics Act has the identical bail provision. Not only the Narcotics Act, I have copies, Sir, you have similar bail provisions besides the Narcotics, Drugs and Psychotropic Substances Act, Scheduled castes and Scheduled Tribes Prevention of Atrocities Act, Anti Hijacking Act, Prevention of Damage to Public Property Act, Prevention of Money Laundering Act and, then, even Suppression of Unlawful Acts against Safety of Maritime Navigations. You have the same bail provisions which are the extraordinary hard bail provisions, Suppression of Unlawful Acts against Safety of Civil Aviation, Terrorist Affected Areas Special Courts Act and, finally, even the Wild Life Protection Act. So, those who commit these offences against the wildlife would not get bail. But, those who committed these crimes against humanity, terrorist offences, were entitled, under this Government, for four-years-and-seven-months, to a lighter bail provisions. They say, 'No. We would not have it.' Finally, I think, where all our logic and rationality failed, you have those ten evil men who came on 26/11 convincing the whole country and then pressurising this Government to, reluctantly, come up and strengthen the bail provisions. Sir, even confessions, on the face of it, looks a little alarmist. I concede to this that, ordinarily, in a law, confession to a police officer is not admissible evidence. It should not be. That is the normal law. In all our laws this should be the general principle. But, we, in India, have exceptions. We, in India, even today, have exceptions. Sir, TADA and POTA were exceptions. The MCOCA is an exception. The Karnataka Organised Crime Law is an exception. The Andhra Organised Crime Law is an exception. The Narcotics Law is an exception. You make a statement to an officer investigating a narcotics offence, your statement is admissible evidence. You make a statement to a customs officer, it is admissible evidence. You have in foreign jurisdictions in liberal democracies these statements become admissible evidence, provided

Judge is satisfied with regard to the voluntariness of the nature of confession. And, the Supreme Court said — it is extremely important. If, obviously, the confession is involuntary or appears to be involuntary, it should be disregarded. But, they say, how do you then ensure that there is no misuse? Sir, four guidelines were suggested. The first one is, the officer recording the confession must be a Superintendent of Police or above. The second one is, it must preferably be video recorded or audio recorded. The third one is, within 24 hours or 48 hours, as the Government decides, the accused must go before a judge after making the confession. The Judge will ask him if it is voluntary. If he says that it is involuntarily, he will be examined medically. All these factors will be considered in order to determine the voluntary nature of that confession. Now, on the one hand, you have an extraordinary crime and that extraordinary crime is a crime against the State, a crime planned in secrecy where there will never be an eye witness. I repeat, those who conspired in secret meetings to assassinate Late Shri Rajiv Gandhi, no investigation could ever produce eye witness of that. One of them had to speak. And, if his statement was not evidence, then, there would be no evidence. If Kasab's statement is not evidence, then it is extremely difficult for India to prove what happened in Karachi or the Pakistan's limb in this conspiracy. When you have gone so far, why do you stop half way? When you want to create a National Investigation Agency, why don't you give teeth that it needs in order to investigate a crime and produce him before the world and the Indian courts evidence required in relation to these crimes? Sir, if these essentials are not there, then, I am afraid, even though, we move half a step further, there will be cases and cases where we still fall short. There are enough people waiting really to find holes in the Indian case. I am not referring this to as a police case. At times, we are in the habit of discussing, well so many attacks took place when you were in power, or, I was in power or somebody else was in power. This is the Indian case. There are enough people waiting. You have articles and books written which says that attack on Parliament was organised by the RAW and the IB. You have Indians authoring such books. Articles in newspapers suggest this. We may all be magnanimous and willing to pass out yesterday's statement of Mr. Antulay merely as an irresponsible act or something where he, perhaps, did not adequately express himself. But, then, his statement is a huge fuel for the country which has been extending facilities to the terrorists in action against India. Read the blogs in Pakistan today. *...(Interruptions)...*

SHRI KAPIL SIBAL: Sir, my learned friend cannot mention the name of a person who is not here. *...(Interruptions)..* He is not here. *...(Interruptions)...* Moreover, he has already denied it on the floor of the House. *...(Interruptions)...*

SHRI S.S. AHLUWALIA (Jharkhand): But all the newspapers carry this news item today. *...(Interruptions)...*

MR. DEPUTY CHAIRMAN: According to him, he has denied it. *...(Interruptions)*

SHRI KAPIL SIBAL: Let us talk something substantive. ...*(Interruptions)*...

SHRI ARUN JAITLEY: Sir, I think, Mr. Sibal is right. I really should not have named him. The Government itself should have named him today morning. But this is something that has embarrassed this country. This has weakened our case internationally. This is something that defies the collective responsibility of the Cabinet; something that provides ammunition to our enemies and opponents. And, therefore, I should not name him, the substance should be the Government itself should have come up and shrugged off its relationship with a person who makes this kind of a statement. ...*(Interruptions)*...

SHRI S.S. AHLUWALIA: The Congress Spokesman said that it was his personal view, it was not the Congress Party's view. But he has not denied it. *(Interruptions)*

SHRI ARUN JAITLEY: Sir, therefore, today, on a strong anti-terror law, where are we? The whole country was misled that we did not need a law. The law was repealed. Then, sentence after sentence, clause after clause of that law was brought back. But, then, you also wanted to have that one upmanship and say, "Well, we are different because this one provision was not there. And, this one provision is a significant provision." Unless that provision is there with safeguards, in case after case, you will be weakening India's case. And, I reiterate and say if that provision had not been there in the TADA, the accused in Rajiv Gandhi's case would have benefited. If it had not been in the POTA, the accused in the Parliament case would have benefited. Fortunately, Mumbai has the MCOCA which has that provision. But for some reasons, I am told, the MCOCA has still not been pressed into action in the 26/11 case. Unless that statement is a statement under the MCOCA, which becomes evidence, the Karachi and the Pakistan limb of the conspiracy may be difficult to establish in law. Therefore, we require to do that. So, please re-consider, when you have travelled all this distance and wisdom has dawned on you in the last five months of your Government, and please don't make it an incomplete statement. The Home Minister was candid enough to say that he had consultations with the Opposition. We made it very clear to him that we will, come what may, support it even if it is half-a-step. We have our own nationalist credentials, therefore, we don't want to stop even half-a-step. But, then, please make India a strong State. This law *per se* will not abolish terrorism. Merely because we have an Indian Penal Code, crime has not ended; because we have section 302 that provides for death penalty or life penalty murders have not stopped. Murders are still taking place, but the law provides a deterrent in a civilized society. It provides an expeditious methodology of investigation and punishment. Therefore, please give this law more teeth than what exist today.

Sir, the second part of the amendment in the second Bill is the setting up of a National Investigation Agency. And, I have said, as far as the first law is concerned, we have supported it because it is half-astep. We have reservations about what has not been done and we will

continue to campaign for that. But as far as the National Investigation Agency is concerned, I have no hesitation in saying that we fully support the proposal as has been mooted by the Government. And, this is for two good reasons. First, some doubts are, at times, raised whether the Central Government possesses the power to take over what appears to be a power within the State jurisdiction. The constitutional entries make it very clear that the defence of India, in List 1, entry 1, is the exclusive primary domain of the Central Government; and, it is the public order, which includes the law and order, which is in the domain of the State Government. Where does terrorism fit in? Terrorism is not merely law and order. Terrorism is something which attacks the sovereignty of India and it attacks the unity of India. Therefore, if there is cross border terrorism of this kind, it has something directly to do with the defence of India. Therefore, even in the Supreme Court, when TADA was first enacted and POTA was first enacted, an objection was taken with regard to the legislative competence of the Centre to enact an anti-terror law on the ground that law and order is a State subject. But the Supreme Court also said that there is no entry called terrorism in the Constitution. Therefore, this could, perhaps, come within the defence of India and not public order. If it doesn't fall in either, then, it comes within the residuary entry, List I, Entry 97. Therefore, this is, exclusively, within the central domain. Protecting the sovereignty of India is the responsibility of the Central Government. Therefore, against terrorism, if a law is brought, it is within the Central domain. If an agency is created to investigate that offence, then, obviously, those who have the competence to enact a law also have the competence to create an agency of that kind.

[THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair]

Therefore, we fully support the Government's proposal that the Central Government is fully competent to enact this law. Even otherwise, Sir, an offence of terrorism in some cases may not adequately be investigated by State police. There may be offences which have inter-State ramifications. You may require sharing of intelligence between several States. You may require coordination of intelligence of all those States. You may have different limbs of the conspiracy in different States. You may even have, — as this law has extra-territorial application; some parts of the conspiracy taking place outside India — some intelligence required from outside India. Now, there may be offences where all this is not present and the Central agency itself may feel the State police can do it. But in extraordinary cases like the one in Mumbai, or, the Parliament attack, these may be cases, where State police itself may be inadequate to investigate the offence. And, by the very nature of the offence, a Central agency would be more competent in order to investigate that offence. Therefore, we fully support the proposal of the Central Government as far as creation of a central agency is concerned with a discretion that some extraordinary offences of this kind, when they take place, the central agency itself will investigate those offences.

Finally, Sir, let us realise one thing. While we are debating this law, this country has paid a huge cost of terrorism. We have lost individuals, we have lost human lives, and we have lost lives of security personnel. A large part of our national resource gets spent on it. Where there is terrorism, investment is not forthcoming. The economic resources are diverted to fight terrorism. You may even have a diversion as far as your defence preparedness is concerned, where instead of looking at your borders, you are looking at your interiors where terrorist activities are taking place. Anti-insurgency steps, anti-terror steps, at times, are strong. Mr. Chidambaram was right when he says that we have to do a balancing act between human rights and fighting terror. Therefore, there may be some erosion, at some stage, of individual rights. Harsh combing operations, at times, lead to alienation of local population. These are all costs we have to pay because of fighting terrorism. Therefore, when this is the kind of cost this country has to pay, I think, we need not be — while we should be concerned about human rights and balance them in our fight against terror — apologetic in a state whose sovereignty is threatened in taking strong anti-terror steps. This Government has decided that they have a change of heart. Though what they failed to do for four years and seven months, those ten men who came from across the borders have persuaded them in doing so, and they have brought this law. But, then, let it be an adequate exercise. It can't be an incomplete exercise. As I said, we, on this side, support these measures as one of national necessity and the Government should not be apologetic about having brought in any of these measures. Thank you very much, Sir.

DR. ABHISHEK MANU SINGHVI (Rajasthan): Mr. Vice-Chairman, Sir, I heard my friend, Mr. Jaitley, with rapt attention. He gave the Home Minister a compliment which is obviously a compliment based on fiction because he reacted to a newspaper report, and obviously, Mr. Jaitley can't be privy to Cabinet proceedings. So since there is no basis as to what happened and Mr. Chidambaram clarified that the compliment itself was based on fiction, therefore, the withdrawal was also fictional. But I must actually partly withdraw the compliment as I was about to give to the Opposition because I was misled into thinking that this is, in fact, a non-contentious debate and that's the good thing about it. It is supposed to be a non-contentious debate. They are supposed to support us but my friend could not repeatedly resist the temptation of being self-congratulatory. He could not repeatedly resist the temptation of saying 'we told you so.' As I will presently show, his self-congratulatory approach is not fully justified although the support which his party gives us, we welcome it in the national interest.

But before we go further, let me deal with a preliminary aspect about the statement of a learned Member of Parliament, a Minister yesterday. I think my friend is being less than fully fair. At five o'clock, minutes after the statement was made, the Congress Party, officially in its Press briefings in Parliament House, categorically and specifically repudiated and rejected the statement and said, 'we neither support nor accept.' Having said that, that was repeated the whole evening yesterday. Today, I am told the learned Minister has himself retracted and

modified or clarified it; and I fail to understand when it's not a Government of India's statement, when it's not a Congress statement, when it's not a UPA statement, I ask myself how Pakistan or any other country in the world can rely on it and say, 'it's the Government of India stand, we told you so.' ...*(Interruptions)*...

SHRI RAMDAS AGARWAL (Rajasthan): He is a Minister.

DR. ABHISHEK MANU SINGHVI: Let me complete. He is a Minister but the Government of India or the ruling coalition or the Party has said, 'we don't accept that statement.' Well I want to ask you my friend, when you, one day later ... ...*(Interruptions)*...

SHRI RAMDAS AGARWAL: He cannot give that. ...*(Interruptions)*... In what capacity, ...*(Interruptions)*...

DR. ABHISHEK MANU SINGHVI: After our contemporaneous clarification ... *(Interruptions)*...

SHRI RAMDAS AGARWAL: He should resign from the Cabinet and then give that statement.

DR. ABHISHEK MANU SINGHVI: Please let me speak. ...*(Interruptions)*... Mr. Agarwal, when one day later, after my contemporaneous clarification and after his own clarification, if you raise it again and again, are you — ask yourself — not politicising the issue for the whole world and are you not making it a political issue? The issue should rest now in view of the clear clarification then.

But, Sir, may I come back to the main business. This is not the main business. The main business is that this Government, this House means business. It means the business of sending a clear signal across the world that the country is united, that it is doing a holistic approach, administrative, legal, factual, logistic to strengthen the whole country in the war against terrorism. We are sending a clear signal that we will show our resolve to terrorise the terrorist but in accordance with law, and I must congratulate the Government for its very swift response but also for its measured response. I think it is important not to have an element of overkill; it is important to focus the remedy to the situation which arises. The remedy cannot and should not be worse than the disease. We must also keep in mind that laws are not the only answer. A law and a legal framework is only part of a much larger holistic framework and you are seeing different elements of that framework whether it is coercive diplomacy, globally, whether it is basic police reforms which are the need of the hour and which are, I am sure, in the pipeline. whether it is logistic upgradation and reinforcement, and it is that holistic approach which alone will win us or get us ahead in the war on terror.

What is also very happy to note is that during the debate held just two or three days ago, or last week, on the Mumbai incident, several issues were raised and discussed, and many of them

find a concrete manifestation in the two Bills that are placed before the House. There is the concrete manifestation of centralised approach, the NIA, the Special Courts. These are all discussed and mentioned in the several speeches made by Members and the discussions that we had a few days ago. As regards fast track approach, appeal provision and other issues, I will come to them, as far as nitty-gritty is concerned, shortly. But the important thing is that these two Bills, both individually and together, represent a seamless web, an indivisible and comprehensive seamless web, which tries to deal with every facet and every aspect of terror, from training to funding, to supplying, and, therefore, it does something which is very important. It deals with the front visible face of terror; it deals with the middle end of terror, and it seeks to deal with the back end of terror. It also seeks to address, as I will, presently, show, every aspect of the preventive facet of dealing with terrorism; aspects of detection, apprehension and arrest, search and seizure of the questioning process of the prosecution and of the conviction and punishment, because without all this, you cannot deal with terror.

Let me, first of all, as I said, disabuse my friend about the violation of his intellectual property rights or the alleged plagiarism which he reminded this House of; we are one on having a strong legal framework. But let me assure you that we are the ones who have brought in TADA; there can be no question of plagiarisation. I will start blaming you for POTA, the plagiarisation from TADA if you blame me. We learnt certain lessons from TADA, and we, therefore, acted. But, now, let me just give you a few specific cases to show you why, far from their being a 99 per cent similarity, there is a huge, significant set of differences. First of all, I am happy to note that this is something that the Leader of the Opposition talked about several times; about having a Central Federal Agency. But, whatever the reasons are, he was unable to bring in a Bill; he was unable to implement. We are proud to actually have implemented the promise of having a Federal Agency. And, obviously, the Federal Agency is the implementing arm of a better legal framework. So, obviously, what you could not do with POTA, you now have a Federal Agency doing that. That, obviously, is a unique and different feature.

The second one is about the definition of 'terrorism'. Let me remind this House and my friend that the definition of 'terrorism' in POTA was fairly large, but the definition of 'terrorism' which we incorporated in the earlier version, of 2004, of the Unlawful Activities (Prevention) Act, is, in fact, much larger and it is still larger in the Bill which you have today before the House. It deals, specifically, with radioactive and nuclear issues. It deals, specifically, with hostage situations, with very wide language—I am not taking our time by taking you to the language part. It deals, very directly, with property, pressures on public functionaries and disruptions of supplies; all relating it to terrorism; all of which were absent in POTA; all of which were not there in POTA. So, give us some credit where it is due, Mr. Jaitley.

Then, again, the punishment for dealing with radioactive substances is being considerably enhanced by having a new specific provision. There is a new specific provision, not found

earlier, section 16: "A separate significant, comprehensive provision, dealing with raising of funds for terrorist acts." I know that there is a funding issue and a provision in POTA. But POTA had 'funding' dealt with in the definition of 'a terrorist offence' and funding dealt with there was much narrower. You now have a separate, independent, much larger and much more comprehensive provision dealing with all aspects of funding very widely in the new Bill, not found in POTA. Two very important, extremely comprehensive, all encompassing provisions about training camps and about recruitment of terrorists, clauses 18A and 18B, are completely new, not found in POTA. Then come issues like bail. For example, my friend, in a sense, just caricatured the bail provision by telling you that the bail provision in POTA and the bail provision here are virtually identical and we have merely re-incarnated the language with slight differences. I am afraid that it is not so. You have to see the provisions. The provision for bail in POTA puts an extremely heavy, in fact, an impossible possibility of getting bail. We have, in fact, put that language in this new Bill elsewhere. But that is for aliens, which says that you shall not get bail except in very exceptional circumstances. But that is only for non-Indian citizens, for foreigners. For Indians, the POTA provision says that the judge shall not grant bail unless the court is satisfied that there are grounds for believing that he is not guilty of committing an offence. For a judge, with merely an FRI and a charge-sheet, to return a finding that the person is not guilty would be virtually impossible. The new provision in the current Bill before you has a provision which, I think, harmoniously marries the demands of security and safety with a fair emphasis on the possibility of getting the bail and on human rights aspects. The current provision, and I remind you, is not identical and, therefore, uses the very significant word "*prima facie*", which is absent in the POTA, and says "reasonable grounds for believing that the accusation is *prima facie* true". That is a very different legal test. It is a very different legal test which lawyers know and lawyers should know. It is a very different legal test as judges know and as also courts administering justice.

Then again, on the issue, of course, of confession, we are again different from POTA because we have not included "an admissible confession" and let me deal with that issue because my friend has said— he has a fair point—why you should not render confessions admissible. Well, you could debate this point. But kindly consider this. You have to measure the cost-benefit aspects of any provision. We believe that, perhaps, the costs of rendering every confession to every police officer, even though above a certain rank, admissible far outweighs the benefit. You might need it and it might work in a few cases, but its abuse is so much as to justify not having it. Now, the Rajiv Gandhi case is not a good example. The Rajiv Gandhi case is not an example for the simple reason that there the conviction, as my friend has himself rightly noted, was upheld under the normal law of 302, murder charge. TADA was not the basis of that conviction. Just three or four weeks ago, we had no less than the Chief Justice of India—of course, he was speaking extra judicially, not on the Bench—categorically saying that blanket

admissibility of confessions raised several issues of constitutionality, doubts and questions. In the Kartar Singh case under TADA, the Supreme Court judgement upheld the admissibility of confession. That case has been specifically doubted by the Supreme Court and I have no doubt, at least, there is every possibility that in the near future the Kartar Singh case will be reconsidered and might well be set aside or reviewed or modified. The Administrative Reforms Commission has raised a very valid point. It is not that we are *per se* against admissibility of confessions for all times. But given the present state of our police system, the present state of training, motivation, facilities and the police system, with police reforms still a long way to go, long afar, whether or not admissibility of confession should await basic police reforms. We think it should. We think that we can reconsider this issue once we have had some reform. Let me assure my friend in this House that we are not toothless, we are not impotent in the face of terrorist attacks as far as admissibility is concerned. Not at all. We have powers. We have the law. My friend knows better than anybody else, we have Section 164. Under Section 164, if you take the terrorist; if he is interested in giving the example of only Kasab, let us take only Kasab's example, Kasab can be taken to the nearest magistrate, one kilometre away from the jail — my friend knows that the new Bill will have special courts — the magistrate can record his confession under Section 164 which is the ordinary law of the land. The confession is fully admissible. What is the problem? Please do not conjure up a fear psychosis that the country is without any law; it is a toothless tiger; it is a paper tiger; it is without any power or it is impotent. The impotence may be there in our thought processes, it is not there in the law. If, for the time being, we are not able to improve our police system, then I think this merits the fair demand of a certain emphasis on human rights along with a fair chance of conviction with confessions or without confessions, as you may chose.

So far as the federal agency aspect is concerned, as I said, we are very proud that we did not talk about it, we actually did it. The previous Government talked a lot about it, but could not do it. On the federal agency, I entirely agree with my friend and to support his argument let me add two or three more provisions. Terror, of course, is an all India phenomenon. Terror, of course, is supportable under Entry 1, List 1, Defence of India. This is after all an indirect war on India. But there are other entries. As I said in the debate last week, the Committee on Law and Justice has specially pointed out in its report submitted to Parliament that investigation and intelligence is specifically covered under Entry 8, List 1, under which we chose to only create a more truncated body, the CBI. But the power is much wider. I also said in the debate that the Criminal Procedure Code and administration of the Criminal Procedure Code would also cover this aspect. So to all the other parties, there are, obviously, other parties here, not necessarily the BJP, which thinks that it is an assault on our federal structure, which thinks it is a dilution of our federal structure, they should be assured that this is not a case of 356 gone amuck. It is not

a case of a lawless exercise or some kind of invasion of State rights. This is a limited, focused, regulated action on terrorism, fully sanctified and supported by the entries of the Seventh Schedule of the Constitution and in any case, I very much doubt, with the great support of civil society, if any court of law in this country, would want to strike it down as being *ultra vires* or beyond constitutional competence. There are very important provisions here about special courts, a point that I touched upon in the debate. The judgement of the Supreme Court says, "You can have special courts, provided you give a judicial element". There is a whole Chapter in this new Bill, which deals comprehensively with special courts, which will also be a kind of a fast track court for terrorism, which is the vital need of the hour. A special court does not mean that the executive chooses a special judge. A special court and a special judge are different. This is the basic principle of the Supreme Court judgement when, you remember, Mrs. Indira Gandhi was sought to be tried under the special courts, set up then. That principle is that so long as you have a consultative process with the judiciary in setting up special courts and you have no power to choose the judge who mans them, then special courts are valid. They do a good job. They are faster. I think they are absolutely vital in this case. There are, of course, special provisions in this Bill, as far as I recollect, which were not there in POTA, which put some much more draconian and stringent power or regulatory framework against aliens, non-Indian citizens.

As I said last time, the United States, after 9/11, passed a series of laws, which we all applauded, and we said, "This is the way to deal with terror." But we forgot that all the stringent laws of the U.S., which enhanced the stringency of the laws about arrests, about detention, were all for aliens, not for domestic U.S. citizens. But, here, in India, we have actually created a very stringent provision about aliens who come into this country. They cannot, by a specific provision, be granted bail at all unless — the phrase used is — 'exceptional circumstances'. It is a different larger issue which need not be detaining this House, whether under our more comprehensive constitutional scheme, such a special provision for aliens or non-Indian citizens will be upheld by the Courts because both articles 14 and 21 of our Constitution which talks of 'Right to life and liberty', apply to Indian citizens and non-Indian citizens alike, something far wider than the U.S.A., which is why the U.S. could have something like Grantham obey but not articles 14 and 21 of our Constitution. But that is a different issue. The period of 90 days is liable to be extended to 180 days. The basic spirit and approach of this new Bill is that the policemen, the NSG Commandos, and the Forces, who fight terror, on our behalf, are not only strengthened directly but they also have the spirit, the feeling and motivation in their minds that whatever they are doing is not futile, that when they do something, they arrest somebody and when they try somebody, all their efforts will not go in vain, or, the person will not escape scot-free. That is the purpose of all these provisions. Therefore, obviously, because terrorists inspire fear, they generate a certain feeling of fear psychosis, investigation is slower; witnesses are

more difficult to find, and, therefore, the extendability of 180 days in a particular case, if the judge so wants, from the normal 60 or 90 days, is a welcome additional step.

Sir, ultimately, this whole issue cannot be really effectively dealt with, without strengthening the backbone of the system, and the backbone of the system is and will always remain the beat constables, the ordinary police forces. The entirety of the huge police reforms, which we know every detail about, — the police reforms as per the Police Commission or as per the Administrative Reforms Commission or as per any number of Committees that we have — they have to go step by step. The pace, the momentum and the direction of these legislative changes have to be maintained through those police reforms. There is now a wealth of information through the Supreme Court directions on police reforms. I know that the States are resisting. The States have a different approach and a different view. But in some of the Union Territories, the Central Government can make an example and lead by way of example in a Union Territory; at least in some Union Territories, where the Central Government has some power to make laws, where the police force can be revamped. Certainly, Chinese walls can be created between the prosecution, the investigation and the operational aspect. Why shouldn't we have, at least, two of these Chinese walls, if not three? The person who operates on the field should not be investigating, and the investigator should not be going to the Court every day for prosecution. And then, you can apply simple new innovative schemes to deal with these divisions For example, as I said in the other debate, if you can have an insurance cover for all your operational police force, of Rs. 1 crore in case of death and Rs. 50 lakhs in case of serious disability. This can be done if you create that division.

Sir, I am very grateful for the time given. In the ultimate analysis, what is important is, despite the few self-congratulatory pats on the back, despite the 'we told you so', and despite the allegations of plagiarism, this is a united effort substantially and largely, and that is the message of unity which we send out to the whole world. I have no doubt that it is not only in the legislative framework, but also in the actual implementation, that unity and that spirit will continue to pervade. That, ultimately, will win us the victory over the terrorists.

SHRI SITARAM YECHURY (West Bengal): Thank you, Sir. I rise today, Sir, with the specific intention of seeking to enrich both the legislations that have been moved by the Home Minister through concrete amendments in order to strengthen our fight against terrorism, our country's fight against terrorism and, at the same time, also to preserve the inviolability of the federal structure of the Indian Constitution. So, while fighting terrorism and maintaining and preserving the federal structure, we do not think these are mutually contradictory or exclusive objectives. I don't subscribe, Sir, that in order to fight terrorism, we require laws which will conflict with the rights of the people and individuals as human rights or fundamental rights

enshrined in our Constitution or the rights of the States as enshrined under the federal structure of our Constitution. I fully agree that every freedom has a reasonable restriction. But, are these laws going beyond these reasonable restrictions? Are they violative of the fundamental understanding of the conception of our Constitution is a very important matter that we cannot ignore? So, therefore, the amendment that we would propose, I will come to that later, is in order to strengthen both these objectives, strengthen the fight against terrorism, through these new laws, at the same time, preserve the rights of the individuals and the rights of the States which, I repeat, I do not think are contradictory or mutually exclusive. This, Sir, I think it is very important for us in this august House, because after all we are the Council of States. The rights of the States under the Indian Constitution is something which we as the Council of States ought to be the custodians to protect. So, therefore, we require to pay a little more attention to this aspect, and that is where I would like also to draw the attention of the House to recollect that the Constitution of India defines our country as the Union of Indian States. It is not the Indian Republic; it is not the Republic of India. It is the Union of Indian States, and behind that is the rich understanding of federalism, of federalism in a diversity which does not exist anywhere in the world. There is no country which has such a rich plurality and diversity. And a federal structure in this background, is a very important entity in keeping our country together. Therefore, we will have to maintain that essence, Sir, and I don't think any measure should be taken which can be violative of that, and if we are doing that, I am afraid, we are going to cut the branch on which we are sitting. So, therefore, I repeat once again that I don't see the objective of strengthening our fight against terrorism as being in any way contradictory to preserving the federal content of our Constitution. And, Sir, in this connection, it is also important to again recollect the Constitution of India talks of India i.e. Bharat. It is not India i.e. Hindustan. It is India i.e. Bharat. There is a big philosophical understanding behind that. That by Hindustan, even by mistake, even if we do not want to mean it, but if that meaning is conveyed that this is the land only of the Hindus, then, we are, actually negating the very concept and conception of modern India. I am raising this point, Sir, precisely to underline the fact that the fight against terrorism is not only a battle that has to be done through laws. The fight against terrorism is finally also a political battle where we have to create in our country conditions which cannot provide the fertile ground for terrorism to thrive. And, if that has to be provided, then, the secular credentials, the secular foundations of India will have to be strengthened, and the political atmosphere and climate has to be brought about where the fight against terrorism cannot be politicised, cannot be communalised and India cannot afford it, if we want to win the war against terror. And, that background is necessary because, unfortunately, I think, so far, it has been a rather legalistic debate that you had. I understand, both our esteemed colleagues are lawyers of reputation, and they have gone into the various clauses, but I thought unless we get back the political backdrop in which we are discussing this issue, I think, we will be missing the essence. In this context, Sir,

4.00 P.M.

before I come to the actual contents of some of the refinements that I am asking the Government to please accept, and concrete amendments that have been moved. There is Statement of Objects and Reasons for the National Investigation Agency. The hon. Home Minister has, here, argued the need for such an agency, which I am not disputing. I will come to that later. But, one of the reasons that he has advanced is because of the innumerable incidents of terrorist attacks, where there is a specific mention of Left-wing extremism. I have no objections to that fact because we have been victims of the Left-wing extremism. Very recently, there was an attack on our hon. Chief Minister of West Bengal by these elements. We are on the forefront to combat it. But, if you are mentioning 'Left-wing extremism', should not Right-wing extremism also find a place? Why is that omitted? You had this entire investigations done into the Malegaon blasts, you had the Nanded blasts, now that inquiry has reached the Samjhauta Express blasts. You have had a military school coming under the radar of these operations. All these are the recent experiences. Why is it that you have mentioned only Leftwing extremism and omitted Right-wing extremism? All varieties of extremisms, I repeat, terrorism knows neither religion, nor region, nor caste nor creed. Terrorism has to be fought united as India and as Indians and, therefore, do not give even in your Statement of Objects and Reasons such an impression that this is directed only at one particular stream or one direction. That will not win us our battle against terrorism. That is something we will have to uncompromisingly State.

Here, Sir, I would say that let us discuss these Bills in the background with the gravity and sincerity that the fight against terrorism cannot be conducted on the playground of politics and politicking. The fight against terrorism has to be conducted as a serious business; it is not a question of some minority vote bank or a majority vote bank, on either side such that the accusations are being hurled, but this is an issue which patriots, as each one of us, will have to stand up to this to fight and it is in that spirit, Sir, I am making these concrete suggestions for the consideration of the House.

As for the National Investigation Agency, there was a time, I confess that my party and the people in the Left, were very apprehensive of creation of such a federal agency. But, today, for important reasons we are supporting the creation of such an agency and these reasons are as follows. One is that we have seen in the recent terrorist attacks that there has been a woeful inadequacy in the coordination between the various intelligence gathering agencies in our country. That we have seen and we have been through that debate only the other week here, in this House, I do not want to repeat all that has happened in Mumbai; the fact remains that there is a need for greater coordination between all these agencies. You have the Intelligence Bureau, you have the R and AW, you have the Military Intelligence, you have the State Intelligence, and there are all these inputs. But, some authority in order to coordinate all these will have to be created. But, somehow, that is not in the ambit of this Agency. This Agency, from the law that has been drafted, comes into the picture only post-event. After the attack has occurred, after

the event has happened, then this Act comes into force. Fine. That part of it, I will come to afterwards. But, the other area, prior to the event occurring, the coordination that is required, the Government must pay attention to that aspect and also come with some concrete proposals on that aspect.

Our hon. senior colleague, who is here, who was the Home Minister for all these years under the UPA Government, as the political leader, his head has rolled; but, the entire apparatus, the administrative set up that you have underneath, in all this intelligence gathering, security agencies, is intact, as it was, as though there has been nothing wrong there; there is not one officer called to be accountable; not one person who has been asked as to why this lapse has been happening. We can, in the august House, and in the portals of Parliament pull him up as the Home Minister. But, should we not set the entire structure in order, Sir? A complete overhauling is required and a new security architecture is required in the country. If that is to be done; the reason why I am saying that, Sir, is that the new agency is, ultimately, to be manned by the same people on whom you have not even pointed a finger asking for accountability. If that is the case, what will be the results? That is a very, very severe question mark that is there and to that area the Government will have to pay attention. Now having said this, the second aspect which is very correct that we have seen with our own experiences of many State Governments that is many a terrorist act that takes place, the linkage transgresses the borders of any individual State, in many cases they transcend the international borders of India and it is true that your require a federal agency in order to conduct investigations of such nature and therefore, we accept this proposal of having a national agency. But at the same time, the rights of the States need to be protected as well, this issue as I said earlier at the outset must be kept in mind. Therefore, how do you rectify or how do you reconcile both these issues? There is a way within this draft and that is what I would like to concretely propose because this draft, for instance, its clause 6.5 says, Sir, that notwithstanding anything contained in this Section, if the Central Government is of the opinion that a Schedule offence has been committed which is required to be investigated under the Act it may suo motu direct the agency to investigate the said offence. Now it follows, what the hon. Home Minister explained, the agency may request the State Government to associate itself with the investigations. But this is discretionary. The powers of the State, as far as our federal structure is concerned, need to be obligatory not discretionary. So, how do you make this obligatory and how do we reconcile this situation? The Schedule under which this agency will operate has eight Acts of the Parliament, eights Acts of the land. Of these eight Acts, I concretely propose that this Schedule be divided into two parts, Schedule A and Schedule B; Schedule A deals with six out of these eight Acts which are essentially atomic energy, antihijacking Act, civil aviation Act, maritime navigation, weapons of mass destruction, etc. and the Schedule B should contain those two acts, which are, Unlawful Activities Prevention Act and the Sections under the Indian Penal Code. Now, both

these Acts normally are implemented by the State agencies and the State police and, therefore, what I am proposing is that as far as Schedule A is concerned, let the existing provisions prevail, we have no objection to it. But as far as Schedule B is concerned, a separate clause be inserted that for all investigations conducted under Schedule B, the State Government will be necessarily associated. This will remove the apprehension that this is violative of the rights of the States. Therefore, this is the concrete manner in which I think both the objectives can be reconciled.

[THE VICE-CHAIRMAN (SHRI KALRAJ MISHRA) IN THE CHAIR]

I say this also, Sir, because Sections 121 to 131 of the Indian Penal Code are precisely those on which the Communist Movement in the country has been under attack a number of times — your Meerut Conspiracy, your Kanpur conspiracy, your banning of the Communist Party, they have all been under these Sections. We are aware that such a situation will come, that is a different matter, we will have to politically fight that then doubt, but let the State Governments association not be discriminatory but made obligatory. This is also important in the Indian context because of the type of terrorism we face, what is happening in the North East, without the involvement of the North-Eastern States, it is impossible for any national level agency to actually even proceed with conducting its investigation. The diversity of the terrorist groups that are active in our country demands that the States be obligatorily associated with at least these two Acts under the Schedule, the Indian Penal Code and the Unlawful Activities Act. As far as other six are concerned, yes, the existing provisions can remain. I think this is the, as far as I can see, best way in which we can reconcile both these objectives. Having said this, Sir, I have moved a concrete amendment on this score and I hope the Government will consider this. But having said this, as far as National Investigation Agency is concerned, I now come to the other Bill that is being clubbed with this, the Unlawful Activities Prevention Amendment Bill.

Now, Sir, this very Government which we supported at that time and we support even now that Act that they did at that time, and that is, this Government repealed the POTA. There was a logic for repealing the POTA and that logic was the potential for gross misuse and our own experience of how POTA was implemented and continues to be implemented even today. But, now it appears that that logic has somehow been reneged, I would not use a strong word as 'reneged', but, I would say, compromised with in bringing back in three concepts. Three concepts have been brought back into these amendment Bills. The first one is in Clause 43 D, which talks of the increases in the period of detention without bail. We heard the provisions earlier. I am not repeating them. The proposal in this amendment is to increase the period under detention to 180 days with non availability of bail and 180 days to even frame the charge sheets. This we are told with a great deal of rhetoric that we have to be a strong country, we have to be a strong nation to fight terrorism. Look at the USA how it is fighting terrorism, look at the western

countries, how they are fighting terrorism, but, we are a weak state. But, what does USA do? After 9/11 the Anti-terror laws that they have passed, under the US laws today, no US citizen can be detained for more than two days. You cannot detain anybody in custody for more than two days without framing charges. What is the experience of the other western countries? In Canada, you cannot detain for more than one day. In Russia, you cannot detain for more than five days. In France, you cannot detain for more than six days. In Ireland, where they have a very big separatist movement and very big tension, you cannot detain for more than seven days. In Turkey, where there is a big problem of fundamentalism and democracy and fights on the streets, you cannot detain anybody for more than seven and a half days. In the United Kingdom, a raging debate took place only a few weeks ago when the proposal came to increase the period under detention from 28 to 51 days. But the House of Lords returned it. Since we follow the Westminster tradition let the Rajya Sabha also return this, even though the Lok Sabha has passed this. Let the Rajya Sabha return this. So we follow those traditions.

THE MINSITER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS AND THE MINISTER OF STATE IN THE MINISTRY OF INFORMATION AND BROADCASTING (SHRI ANAND SHARMA): You like to be compared with the Lords.

SHRI SITARAM YECHURY: No, no, I am talking of the Upper House, not of the Lords. What I am saying is, we follow the Westminster system to the dot. The colour scheme is also the same. The colour scheme of the House of Commons, the House of Lords is the same as your Lok Sabha and the Rajya Sabha here. Why is the Rajya Sabha having colour red while Lok Sabha has the colour green? It is because if the Lok Sabha does something wrong the red light is flashed from here. We stopped the Lok Sabha. If they passed it to increase it to 180 days, we can stop it now and say, 'do not do this because there is...

SHRI ANAND SHARMA: If we were to do that, then, we know there will be many Ex-Lords here who would be very happy to take your place and my place.

SHRI SITARAM YECHURY: That we will not allow. We will do it for democracy. We will do it for the people not for the Lordships. Therefore, what I am saying is, please consider that if 90 days is not sufficient for you to frame a charge sheet and if 180 days is required, when you have all these countries which you adulate saying that they are fighting against terror, they are strong States, there are States which do not compromise with on terror, if the maximum there is 28 days in UK and the minimum is one day in Canada, two days in the USA, five days in Russia, what message are you giving the world? We are so incompetent? Our system cannot charge sheet. We cannot frame the charges. Therefore, we will take such a long time and, then, open up the Pandora's Box for misuse. We have seen how many youth languish in Jail even under the 90 days period and we have seen it from Hyderabad where I grew up, when the Mecca Masjid attack took place. Not a single charge has been proved against them. And, for over a year, this youth was languishing in jail. What are you creating out of them? Innocently you are putting them

there. But, when they come out, what do they become? Patriots? You are laying the fertile ground. If you want to fight terrorism, you do not compromise human rights and fundamental rights to that extent. That is precisely what I was saying. There can be reasonable restrictions. But, there cannot be such powers which can, actually, lead to counterproductive situation.

Secondly, there is another clause 43E which deals with the question of onus of proof. The onus of proof of a person's involvement in any terrorist act, if any evidence is found of that person in the area of the act, the onus of proof lies with the person who is accused, not with the law and not with the court. This is a complete reversal of conventional wisdom of jurisprudence which says, 'I am innocent until proven to be guilty.' Here, I am guilty till I prove myself innocent. This is, again, liable to be grossly misused. Anything that can be planted that belongs to me. I will be arrested and then shown that my belonging was found on the site and it is for me now to prove that I am innocent till then I will be considered as guilty. This reversal of the entire philosophy of jurisprudence, we think, is completely unwarranted in this case. If there is such evidence — yes, there may be such evidence — let that be produced before the court and let the court of law decide. Why do you want to arm yourself by presumption that because that evidence is there till I prove myself not guilty, I will be guilty? This is something, again, which will be liable to be grossly misused.

The third one is 43F (2) where it says, 'any person who refuses to furnish information or furnishes wrong information is liable for 3 years punishment or fine or both.' Now, our point is, the question of the veracity of his refusal to furnish information is to depend on the report of an officer of the rank of SP or higher. Now, whether the veracity of that claim is correct or not why don't you let the court decide. Why do you, again, want to presume saying that, 'I am saying that he is not furnishing information or furnishing wrong information. Therefore, he is guilty and he will be imprisoned for 3 years.' So, our experience shows that these three clauses have all been grossly mis-utilised and created grievous harm to the country by alienating hundreds of people all over the country due to wrongful confinement. I want to talk about our earlier terror laws. What was our own experience of the TADA? Sir, the TADA was brought in view of Punjab militancy. Sir, in Punjab more than 15,000 people were arrested under the TADA. But the conviction rate was less than 2 per cent for more than 15,000 people! And, then, of the 76,036 people arrested till mid 1994, by 2001, nearly, 99 per cent or 75,200 were in different stages of trial and had not been produced before any court at all! You keep them in jails for five years or six years. You don't produce them before the courts. And, then you say why is terrorism is growing. If you cannot stop or plug such gross misuse, you are creating the fertile ground for enemies of my country to work in this field. You are providing them the fodder. This is their gunpowder with which they work. So, please keep that in mind. What happened to the POTA? As I said, very correctly they withdrew it. The Central POTA Review Committee, in May 2005, went through all the POTA detainees in Gujarat. And, then, what did it say. I am quoting

paragraph 40 of the Review Committee's Report. It says, "After appreciating the evidence made available to us, and considering the respective arguments of the learned counsel of the accused people and the learned Public Prosecutor, the Committee is of the considered view that the incident had taken place on the date, time and place, as alleged by the prosecution, but, certainly not as a part of the conspiracy envisaged under the provisions of the POTA.' Then, it goes on to say to release all these people under the POTA and try them with the other laws that exist in our country. What is the reality? These people continue to remain in jail under the POTA even today. While we are discussing this, they are still under the POTA after the Review Committee gave it in May, 2005. Three-and-a-half years have passed after the Review Committee said that its decision would be final. But these people are still languishing in jails.

[MR. DEPUTY CHAIRMAN in the Chair]

What sort of fight against terror is this but gross misuse of human liberties? Fight against terror by all means for which all of us are united, as one man, we will do it together. But that fight has to be done within the democratic framework that we have and the federal structure that we have. And, we think, it is perfectly possible. It is perfectly possible to conduct this fight against terrorism. Strengthen our fight against terrorism through the concrete amendments that I have suggested, without encroaching upon the rights of the States. We can conduct this fight against terror without unduly affecting the human liberties and fundamental human rights of our people. And, that can be done if we can actually accept the concrete amendments that we have suggested; that we can reconcile both these conflicting objectives that the Home Minister had said when he was introducing these Bills. I see them not conflicting *per se*, I see them as how you have to temper both these objectives in order to ensure that one is not violently encroached upon in order to pursue the other. So, I do not subscribe to the theory that in order to pursue the fight against terrorism you have to curtail human liberties and human rights. There will be reasonable restrictions, but beyond that I don't think that anything further drastic needs to be done.

Therefore, Sir, finally I would like to say that we should not proceed with certain knee-jerk reactions. The Home Minister has graciously said that they would revisit these laws once again in February when we meet. If you are going to revisit these laws, why did you not send it to the Standing Committee for a proper examination? And, if you are going to revisit these laws, then, what is the point in which you are hurrying through this process. We want to strengthen ourselves in our fight against terrorism, but in order to do so let there not be kneejerk reactions. Please seriously pay attention and consideration to the amendments moved by us. In that way, try and reasonably measure out the manner in which we are proceeding to fight against terrorism but, at the same time, also protecting the rights of individuals and the federal rights of the States under our Constitution.

Again, Sir, I would only wish you underline that the fight against terrorism is not only through legal laws and legal means. I had said that at the outset that there are many steps that will have to be taken to prevent such attacks from taking place rather than bringing in laws in order to deal with such attacks after they have taken place. Both are important. Yes, you bring in these laws to fight, but these laws *per se* can only act as a deterrent, but they cannot act as prevention. In order to have the prevention, as what I have suggested earlier, the other areas need to be looked into. There needs to be a greater coordination between our investigating agencies and security agencies; that is one thing important. But, most importantly, the political climate and atmosphere has to be created to fight terrorism and fight unitedly by all of us as Indians. That's why, today, while we pay homage to Mr. Hemant Karkare, we pay homage to all those people who laid down their lives there, please recollect, hours before they gave up their lives, the sort of vilification that was being done against them, because they were pursuing a particular investigation of a particular military school. You cannot have such double standards. If you want to fight terrorism, you have to create the atmosphere in our country where communalism cannot feed terrorism and terrorism cannot be used as an instrument for communal polarisation for political ends. We have to end that atmosphere, otherwise, we cannot fight terrorism in our country. That is one precondition. The other precondition is, you have to eliminate the sort of stark poverty, impoverishment and depravity that we find in large parts of our country. It is this poverty that creates and lays the basis; foundation, unfortunately, for such terrorist groups and activities to flourish. The flavour of the month or, let us say, the flavour of the times, after the USA election, after the victory of Mr. Obama, has changed. They were seeking a change and everybody wants a change. But, what is the change I seek in my country? You go out of this Parliament House, you walk through any red light in our country, on the roads here, you will find people asking for change. They are asking for change from your pockets. These are beggars on the streets. They are not asking for a change of the system which we are talking about. But, if you don't change that situation where people are asking petty change from your pockets as their only means of livelihood, you will forever keep providing all anti-democratic forces like terrorists the fertile ground for recruiting people from these areas. Unless you follow economic policies that will eliminate these conditions, you will not succeed in your fight against terrorism. So, let us not reduce our fight against terrorism only to the enactment of some laws, as important as they may be. But, let us take up this fight against terrorism in right earnest, as a united country, in a secular manner where terrorism has to be fought without any tags of religion, region, caste or creed, where terrorism will have to be fought by creating those conditions, those preconditions on which terrorism or terrorists can't thrive. It is that sort of an India we have to create if we have to fight terrorism.

Therefore, on behalf of my party, I would request the Government to concretely consider the amendments that we have moved because we think these amendments are to strengthen

the struggle against terrorism on the one hand and to safeguard the federal content of the Indian Constitution, the civil liberties and human rights of our people on the other.

Finally, it should pursue policies which will create a more egalitarian society rather than create disparities which will be used from the bottom end by the terrorists for their activities to thrive. So, Sir, unless we do it in a holistic manner, we will not succeed in this struggle. I hope the Government will take these amendments seriously. I request them to accept these amendments and let us, together, enact this legislation with these amendments so that we can strengthen our fight against terrorism. Thank you, Sir.

SHRI KAPIL SIBAL: Mr. Deputy Chairman, Sir, I am, indeed, grateful to intervene in this very, very significant debate. I want to record my appreciation both for the Opposition in this House, my good friends on the right, but, otherwise, on the left, for supporting the setting up of a National Investigating Agency, as well as, amendment to the Unlawful Activities (Prevention) Act. But, I thought that we would proceed with this debate without any sense of acrimony, without any accusations against each other so that we can send a message not to the nation but also the rest of the world that in our fight against terrorism we stand together. I was hoping that that would happen. Unfortunately, that didn't happen. I am absolutely surprised that my learned friend, Mr. Arun Jaitley, who is very capable, made a very curious statement in this House by saying that republicanism and national sovereignty can't go together. That's extraordinary. I thought that republicanism and passion for republicanism, passion for human rights is the only secure way to ensure national sovereignty; and I can do no more than, in a way, put the substance of the words of the Prime Minister in a recent International Conference on "Jurists on Terrorism, Rule of Law and Human Rights held on 13th of December where he, in substance, said the following, which is a marriage between republicanism and our national sovereignty. This is what he said. He said, "We need to be resolute, yet careful in our fight against terrorism. We need to understand the relationship between human rights and the fight against terrorism. The two concepts are not mutually exclusive. They can go hand in hand. When in conflict, it is possible to resolve them. Systematic terrorist acts qualify as crimes against humanity. They sometimes threaten national security. In certain circumstances, States are both entitled and obliged to take steps that derogate from human rights principles. We should not feel discouraged. Certain rights and freedoms can be derogated from, but only to the extent necessary to meet the security threat. The fight against terrorism should not result in brutalisation of our society. We must also ensure that no group or section of society gets targeted in our commitment to fight terrorism. What is required is flexibility. We cannot put our rights and freedoms at risk while dealing with terrorists.' I think, Sir, that is really a statement which encapsulates the significance of the connection between republicanism and national sovereignty.

Sir, there are five statements that my good friend made at the outset which he gave as reasons which were untenable prior to what happened in Mumbai and the first of those five statements says that 'we said that anti-terror laws were against minorities.' I don't think any of us has ever made that statement. We have always said that 'we have seen with our own eyes and through the knowledge that we get from what is around us that anti-terror Acts in the past, in particular, POTA, were actually used against minorities.' The law was not against minorities. But it was used against the minorities, and that is what we said. We never said that 'anti-terror laws are anti-minority.' And the proof of the pudding, Sir, is in the eating. I remind my good friend, Mr. Jaitley, of what happened in Godhara. On the 27th of February, after that horrible event, about 90-odd people were put in jail and it was set out time after time through public statements by responsible people in this country that these are all terrorists. Now, Sir, we are in 2008 and by February, 2009, seven years would have passed. May I say on the record of this House that not any of them has got bail?

Sir, under POTA, there was a Review Committee which is a statutory Committee; and, in terms of that Committee, on 16th of May, 2005, that Committee came to this conclusion; and, I quote, "In our opinion, this is a simple case of unlawful assembly committing various offences under the Penal Code and other special Acts but certainly not under the provisions of the POTA." This decision came in 2005. The Gujarat Government refused to implement it. They refused to implement it. The Public Prosecutor moved the Magistrate saying that 'you don't accept the opinion of the Review Committee.' The matter ultimately had to go to the Supreme Court, and, on October 21, 2008, this is what the Supreme Court said, and, I quote, "We, therefore, hold that once the Review Committee, on review, under section 23 of the Repealing Act, expresses the opinion that there is no *prima facie* case for proceeding against the accused in cases in which cognisance has been taken by the court, such cases shall be deemed to have been withdrawn."

These cases were deemed to have been withdrawn in 2005, but, in 2008, they are still languishing in jail! They have not got bails, Sir. Forget about the bail. No charges have been framed against them after almost seven years! This is what we meant, Sir. POTA was not an anti-minority law. But POTA was being used by them against the minorities. ...*(Interruptions)*... This is the first statement that my learned friend made.

The second statement that he made was that we said that no special law was required because that would infringe human rights. We, again, never said that at no stage, any member of our Government, or when we were in opposition, we never said that. We only said, please do not misuse an instrument of law as an instrument of oppression against a particular community. So, I want to just set the record straight.

The third statement that he made was that we said that this law would provide scope for misuse and abuse. Not only did we say it; we proved it. The proof of the pudding is in the eating. We have shown to you how certain Governments have misused these laws.

1And, then, he said that we also said that anti-terror laws do not prevent terrorism. We still stand by that, Sir. POTA was in place when this great Institution was attacked. It was in place. MOCOCA was in place when Mumbai was attacked. The terrorists attacked Parliament despite POTA and the terrorists attacked Mumbai despite MOCOCA! Laws do not prevent terrorists from attacking and killing the innocent people. Attacks are made on the basis of the mindset of people, and what we have to fight......*(Interruptions)*... I am not going into the debate on communalism. I am just going to say about the assumptions, the statements attributed to us; I want to set the record straight on the floor of the House.

My learned friend has made four assumptions on the basis of which he has attempted to attack the Government. Firstly, he said that we have brought back POTA. He said he has mixed feelings about it because it is like a halfway house, and in a sense, we have brought back POTA. Well, I am afraid, that assumption is completely wrong. We have not brought back POTA, and I will prove it to you in the letter and words that we have not.

The second assumption that he made was that this is a cut-and paste job, that basically, we have borrowed this law from POTA and, in a sense, it is stealing intellectual properly. Well, I will demonstrate to him that that is also wrong in substance.

The third thing that he said was: "How will you get convict of Lakhvi? How will you get conviction of other people in Pakistan unless you make the confession of an accused to a police officer, admissible in evidence? You can't do that. Because if you had POTA in place, we could have done that." The third assumption is completely wrong. I will demonstrate it presently.

The last assumption which he made was very unfortunate. He said that this Government has led this country vulnerable. I don't think that any Member of this House could make such a statement. No Governments want their country ever to be vulnerable; not even yours. If and when you come to power, we will never make that statement, in any part of this House. Yes, the country was attacked. Yes, our Home Minister went to Bombay and said, "We are sorry." But it is not as if it has not happened in the past. If I start telling you as to what has happened after 2001 and the number of times this country was attacked by terrorists despite POTA, it would be a sad story. But I do not want to indulge in that blame-game. That is not the purpose of this debate. Let us have a constructive debate.

Now, let me go back to the first assumption. He has said that we have brought back POTA in this amendment of the Unlawful Activities Act. There are three provisions that we have now incorporated in this Bill. One is that section 167 of the Code of Criminal Procedure has been incorporated with some variation. The second is the bail provision and the third is confession. My learned friend knows that confession has not been brought back in any way. As far as the bail provision is concerned, the original bail provision of POTA was a modification of TADA. The original TADA provision is that if an accused wants bail, then the Public Prosecutor must be

given an opportunity to oppose it. If the Public Prosecutor opposes it, two conditions have to be satisfied before bail can be granted. The first condition is that the court must come to the conclusion that the accused is not guilty of the offence. Now, I wonder how a court can ever come to a conclusion that a person is not guilty of an offence before the trial! Impossible! So, naturally, nobody ever got bail. The second condition is that in the event the bail is granted, he will not commit an offence in future. Now, how can any court come to a conclusion that if it grants him bail, he will not commit an offence? No court ever comes to that conclusion. That was a TADA provision. Now, the POTA provision left out the latter part, namely, the satisfaction of the judge that if he is granted bail he will not commit another offence. But they kept the other part, namely, that he must come to the conclusion that he is not guilty of the offence. The result was nobody ever got bail. Is that the purpose of criminal jurisprudence? Therefore, in the present provision we have made a substantive change which is the balancing of human rights consistent with our Constitutional principles and taking care of our national security. The provision is the following: If a person wants bail the Public Prosecutor has to be heard and if the Public Prosecutor opposes the bail, then the judge can't grant bail. Unless the judge grants bail, the judge comes to the conclusion that he has prima facie committed an offence, not that he is innocent. That *prima facie* there is evidence to show that he has committed an offence is the provision of the Code of Criminal Procedure in cases of murder, whether it is life imprisonment or death. The same principle in the Code of Criminal Procedure which is applicable to cases where punishment is death or life imprisonment is now put back into this law. It is a substantive depart from POTA and it has nothing to do with POTA and the provision of confession to a police officer has been dropped.

The third provision is the detention of 180 days which my learned friend talked about. There is again a difference between POTA and the present provision. Under POTA, if the Public Prosecutor made an application to the court that he could not complete his investigation, merely on that application, without anything more, the judge had to give him time for 180 days. Under the present law if an application is made— because the provisions said, "shall grant an extension for 180 days"—it says, "the court, if it is satisfied that the investigating authorities have done whatever they could, may grant extension". Again, it has nothing to do with the POTA provision. So, *qua* all the basic provisions on which we had opposition, we have not accepted any of POTA. So, for you to say that we have brought back POTA through the backdoor and that is why you have mixed feelings, I am afraid, the whole assumption is wrong, Mr. Jaitley.

Secondly, it is very interesting, he asked: How are you going to get the people convicted? How are you going to get conviction of the people in Pakistan, unless you have the confession provision? Well, Mr. Jaitley knows in a court of law and under POTA, even if you had POTA today, you could not get conviction of the people in Pakistan because POTA provision on

confession says—this is something in the law itself—that the confession of an accused will be only used against him. It cannot be used against the third person. This is an amendment you made, Mr. Jaitley; your Government made. I will give you the law. You are shaking your head. I will give it to you. This is the POTA provision. It says, "...shall be admissible in the trial of such person for an offence under this Act or the rules made thereunder. The confession shall be recorded in an atmosphere free from threat or inducement and shall be in the same language in which the person makes it. The person from whom a confession has been recorded under sub-section (1) shall be produced before the Metropolitan Magistrate.." So the confession has to be used against him alone. That is the law.

Now I tell you what TADA said and what MOCOCA said. This is what TADA said which you departed from. Section 15 of TADA says, "...shall be admissible in the trial of such person or co-accused, abettor or conspirator for an offence under this Act or rules made thereunder". That was the TADA provision. They took out co-accused under POTA. They took out abettor and they took out conspirator.

MR. DEPUTY CHAIRMAN: Mr. Sibal, kindly address the Chair.

SHRI KAPIL SIBAL: I am just indicating through you, Sir, ...

SHRI ARUN JAITLEY: Sir, my learned friend should be obsessed against terrorists, not against me. *...(Interruptions)...* Being a Minister, he should not be apologetic.. *...(Interruptions)...*

SHRI KAPIL SIBAL: Mr. Deputy Chairman, Sir, the point that I am making is, it is very unfortunate for a man who knows the law to make a statement of such a serious nature that if POTA had been there we could have got conviction of other people who are in Pakistan. That is a very serious statement. Then to accuse this Government. *...(Interruptions)...*

SHRI ARUN JAITLEY: Sir, if he wrongly quotes me and then he answers something which I have not said, either we make it a personal debate and I answer him back or he talks about the Bill that this Government has brought.

SHRI KAPIL SIBAL: Sir, I do not want to answer him because he will say I am trying to answer. *...(Interruptions)...*

MR. DEPUTY CHAIRMAN: Please.

SHRI ARUN JAITLEY: Everything you said on the Gujarat case, you concealed the basic facts. You concealed the facts how your Government helped the persons who set the train on fire. If you want, let the entire history of the case be discussed. *...(Interruptions)...* The Central Government filed affidavits. They have not been granted bail because the Supreme Court did not. *...(Interruptions)...* The Supreme Court said, "They are still guilty under Section 302. So, they can't be given bail. The Minister of the Government ....

SHRI KAPIL SIBAL: That is incorrect. I have got the Supreme Court judgement. I do not want to go into it.

SHRI ARUN JAITLEY: They have been denied bail. ...*(Interruptions)*...

SHRI KAPIL SIBAL: I have quoted to you the Supreme Court judgement. I have not said anything more than that. I don't want to enter into any debate here.

SHRI ARUN JAITLEY: That is only on the binding nature of a Review Committee finding.

SHRI KAPIL SIBAL: If you don't mind. ...*(Interruptions)*... Sir, the point I am making is, this particular law is a great departure from POTA. We stand by what we did, namely, we repealed POTA; we have not got back POTA; we have no intentions of bringing back POTA. What we have done is to ensure that in certain circumstances an investigation can carry on for 180 days and in certain circumstances bail can be granted and no confessions to a police officer are admissible in evidence. That is all we have done. The second point he made was that once Kasab makes a confession, it can be used against others. Now, Sir, in an investigation what happens is, you get hold of somebody and you ask him to confess. Then you have to get the presence of other people who are involved. Unless you get the presence of those people you can't carry on with the investigation because you cannot prosecute those people. So you have to get custody of those people from Pakistan. Once you get custody of those people from Pakistan, you interrogate them. After you interrogate them, you get evidence. Once you get evidence, you can convict them on that evidence. You don't have to depend on x's confession to convict 'y'. You have to depend on your investigation and your interrogation. If you don't get custody of the accused, how would you convict them? To say, therefore, at this point in time, as to how we would convict the others unless we get the confession, is meaningless. You have to first get the custody, which is what this Government is trying. This is what this Government has told Pakistan, "Please give us the custody of Lakhvi. Please give us the custody of all those whom Kasab has named." Now, if they are sent to India, then, we have a right to interrogate them. Once we have a right to interrogate them, we will get the evidence. Once we get the evidence, we will be able to prove the charges against them. The argument, therefore, doesn't stand on reason; it is based on an assumption that doesn't exist. Then, my learned friend said, "Look, as far as you are concerned, you have opened yourselves to the charge that without bringing in this tough law, you are a vulnerable State." I am afraid that is not fair for him to say a thing like that. How is it that we are a vulnerable State? We are a vulnerable State because of the fact that for the last 20 or 30 years, we have not paid attention to the kind of things that ought to have done to empower our intelligence agencies, to equip them with proper instruments, to ensure that they have proper mechanisms for investigation, to arm them with the most modern

weapons and to ensure co-operation of both investigating and intelligence agencies through out the country. That is the reason why we have not been able to arm ourselves with the kind of weaponry and the kind of paraphernalia that we need to counter terrorists. And that has nothing to do with one Government or the other. In the last 20 or 30 years, that has not been done. And this has been proved in Mumbai. It had been proved when Parliament was attacked. It had been proved in Akshardham. It had been proved in Kaluchar. It had been proved in all the attacks that have taken place. And that blame doesn't go to one Government or the other. As a society, we have not moved forward to protect ourselves, and that is what we need to do.

Sir, what is POTA? POTA is used when a terrorist is caught. Then, you deal with terrorists. POTA has nothing to do with an attack via terrorists. Before he is caught, POTA doesn't come into play. So, POTA does not prevent an attack. POTA ensures conviction. POTA ensures punishment. POTA ensures evidence. POTA does not prevent an attack. And what we are talking about is prevention. We are not talking about punishment. These laws deal with punishment. These laws do not deal with prevention...*(Interruptions)*...

श्री रघुनन्दन शर्मा (मध्य प्रदेश): उपसभापति महोदय, ये पोटा के जाल में फंस गए हैं। इनको पोटा के जाल से निकालिए।...(व्यवधान)...

श्री कलराज मिश्र (उत्तर प्रदेश): आप अगर विषय पर बोलेंगे तो ज्यादा अच्छा होगा। पोटा-पोटा करके आप ...**(व्यवधान)**... पोटा को सुधारकर आप अच्छा लाए हैं, इस पर बोलिए।

श्री कपिल सिब्बल: इसका तो मैंने बता दिया... Now, Sir, the third point that he raised was, "Look; you have stolen our intellectual property. It is something that you have just cut and paste from POTA." I just want to put the record straight. When they came to power, it was in 1996 for 13 days, in 1998 for 13 months and then till 2004. Prior to that, they have never really been in power except during 1977-79. All the laws, that have been framed, have been framed by the Congress (I) Government. In 1999, when they came to power, they copied TADA and made MCOCA in Maharashtra. I don't want to go into those provisions. All the provisions of MCOCA are a replication of TADA. All the basic provisions, that I have talked about, are a replication of TADA. I have got the MCOCA Act with me; I don't want to enter into the controversy. Now, all the provisions, that he has relied upon in POTA, are a 'cut and paste' of all the previous Acts that have been passed by the Congress (I) Government; whether it is the Narcotics Act or it is the COFEPOSA or it is the FEMA or any other Act. All the provisions exist in those Acts. What they did was they copied TADA and brought POTA, and then, they say as if POTA is something which they have been able to put on the book. This kind of argument is like a child saying, "तूने मेरा कॉपी कर लिया..." Is this the kind of argument to be made in a House saying, "Look; you did a cut and paste job"? I don't think these kind of arguments should be made on a very serious issue that we are faced with today, that is, terrorism.

Sir, the last point I wish to make is that they had six years to set up a national or a federal agency to investigate crimes. Really, if they had set up that agency, we would be in a stronger

position today. They had six long years; they were not able to do it. Why they were not able to do it, I don't understand. But, the fact of the matter is that this investigative agency is really the basis on which intelligence gathering will be made in this country, and cooperation will be had with all agencies throughout the country along with modernisation and electronic equipment so that there is a national server on the basis of which information in that server will be analysed and people can prevent acts taking place. This Agency was a much needed agency. It ought to have been set up by us long time ago, and I don't even blame them. What they ought to do is to cooperate with us and say, 'look, this is good'. He said so; I am glad that he had said so. This National Investigating Agency will be the one which will be the backbone for prevention because this is the one that gathers the evidence to ensure that there are preventive acts. The amendment to the Unlawful Activities Act is nothing to do with prevention. It is something to do with punishment. I am afraid, the points that are sought to be made in a national debate ought not to point fingers at the other party and say, 'you were not able to save India from a terrorist attack.' Because that, I am afraid, should not be the tenor of this debate, as my learned friend has made it out to be. Because terrorism is not something that can be prevented by anybody. These acts have been taking place right from the beginning. These are hundreds of years old. Terrorist acts have happened in the past, except that now with modernisation of equipment, terrorists are able to attack using better weapons than even those who can defend themselves. So, terrorism is not something that can be wished away. Even America can't wish it away. See, what is happening in Iraq. The Americans have not been able to quell terrorism in Iraq, despite the fact that they have the most modern weaponry.

SHRIMATI BRINDA KARAT (West Bengal): They created it.

SHRI KAPIL SIBAL: That is not the point. The point is, they have not been able to. Weapons can't by themselves destroy terrorism. You have to have a mindset, and if you follow a policy, that breeds terrorism, then, in the ultimate analysis, you will fall prey to it. Therefore, these debates should not be the kind of communal debates that we are seeing in this country. These acts should not be acts used as instruments of oppression against a, b and c. These acts should not be there to say because you are soft on terror, therefore, you want to favour a particular community, you want vote-bank politics, that is why you are doing this. This is what vitiates the atmosphere. I can understand the politics behind it. But, if you really want to care about the security of this country, or, you are concerned about the security of this country, don't play politics with security, don't play politics with terrorism. Don't say that you are doing this because you are trying to protect a particular community. We will protect anybody that need to be protected, no matter what his religion is. But, the problem is, you are using it as an instrument. I mean, I heard national leaders saying, 'look, people are torturing somebody in jail'. I heard national leaders say that somebody is being tortured

5.00 P.M.

in jail. Why should we torture knowing full well, and my good friend will know about it that every lawyer knows about it that whenever an accused is charged with an offence and he is put in custody, he comes out with an application saying, 'I am tortured'. So, suddenly, for one particular person in India, it became a national issue that person is being tortured, that while hundreds and hundreds of people are rotting in jails today and are being tortured, denied bail, nobody speaks for them. That is why I say don't use these acts as instruments of politics for your national agenda which is to divide society, which is to build barriers amongst people. And that is the tenor of the debate today. 'You were soft on terror, we are strong on terror'. They tried it in Delhi, and see what happened. The people in this country are far too mature to be taken in by all this. They have shown their maturity. And, you know their 'poster boy' roamed all around the States, talking about terror. I remember distinctly, when we talked about intelligence failure when Kargil took place and a whole territory was occupied, we said, "There is a big intelligence failure', and they said, "You are anti-national". They said, we are anti-national. Why? Because we said there was an intelligence failure. They talked about intelligence failure even while we were being attacked in Mumbai. They were not anti-national then! Why? Because it served their politics! They went to Mumbai, some of their poster boys made statements in Mumbai, 'I give this amount of money to this person, I give this amount of money to this person.' *(Interruptions)*

श्री कलराज मिश्र: महोदय, ये विषय पर नहीं बोल रहे हैं। **...(व्यवधान)...** विधेयक पर बोलिए। **...(व्यवधान)...**

श्री कपिल सिब्बल: मैं विधेयक पर ही बोल रहा हूं। **(व्यवधान)..हम** इंटेलिजेंस की बात कर रहे हैं।...(व्यवधान)...

श्री कलराज मिश्र: एक तो इस तरीके से बोल रहे हैं।...(व्यवधान)... आप implementation की बात कह रहे हैं।...(व्यवधान)... जब न्यायालय ने फैसला दे दिया, तो आपने इम्पलीमेंट क्यों नहीं किया?...(व्यवधान)...

श्री कपिल सिब्बल: इंटेलीजेंस तो फेलियर हो चुका है।...(व्यवधान)...

श्री कलराज मिश्र: फेलियर तो आप होते जा रहे हो...(व्यवधान)...घोषणा करते जा रहे हो और उसको इम्पलीमेंट नहीं कर रहे हो,...(व्यवधान)... और इस तरह कह रहे हो कि हम इम्पलीमेंट करने के लिए कानून बना रहे हैं।...(व्यवधान)...

श्री उपसभापति: कलराज मिश्र जी, उनको बोलने दीजिए।...(व्यवधान)...

श्री कलराज मिश्र: अभी तक हमने कितना इम्पलीमेंट किया है?...(व्यवधान)... आप बोलिए, हम आपको सहयोग कर रहे हैं और आप हमारे ऊपर अटैक कर रहे हैं।...(व्यवधान)... आप मंत्री हैं, आप कैबिनेट के मंत्री हैं।...(व्यवधान)... हम सहयोग तो कर रहे हैं।...(व्यवधान)... हम बोल रहे हैं।...(व्यवधान)...

श्री कपिल सिब्बल: अगर आप सहयोग करते,...(व्यवधान)...

श्री कलराज मिश्र: हमने यह कहा कि अगर पोटा की अच्छी चीज ले ली तो अच्छी बात हो गई, अब आप उसको बिल्कुल neglect कर रहे हैं।...(व्यवधान)...

श्री कपिल सिब्बल: एक मिनट, एक मिनट।...(व्यवधान)...

श्री कलराज मिश्र: आप अपनी बात बोलिए...(व्यवधान)... अटैक मत करिए। ..(व्यवधान)..

श्री उपसभापति: आप बैठिए।...(व्यवधान)...

श्री कपिल सिब्बल: अपनी बात बोल रहे हैं।...(व्यवधान)... अगर आप सहयोग करते, तो उठकर कहते कि हम इसका समर्थन करते हैं। जो विवादित राजनीतिक बातें हैं, उन पर बहस करेंगे, लेकिन यह आरोप लगाना कि आपने हमको कमजोर कर दिया, आपने हिन्दुस्तान को vulnerable कर दिया। यह कोई पोटा पर बहस हो रही है या unlawful activities पर बहस हो रही है, आपने कहा कि आपने हमें कमजोर कर दिया, इस देश को कमजोर कर दिया, यह unlawful activities पर बहस थी, यह unlawful activities पर बहस नहीं थी। अगर आप राजनीतिक बहस करोगे, तो मैं उसका जवाब नहीं दे सकता?

श्री कलराज मिश्र: जो आपने निहित किया था, उसी का वर्णन किया है।...(व्यवधान)...

श्री कपिल सिब्बल: यही तो मैं कह रहा हूं।...(व्यवधान)...

श्री कलराज मिश्र: कमजोर करने की बात है, तो यह कमजोर तो हुआ है।...(व्यवधान)... नहीं किया तो कमजोर तो हुआ है यह।...(व्यवधान)... हमें पता है, देखिए, मेरा बोलने का समय है...(व्यवधान)...

श्री उपसभापति: देखिए, जब आप बोलेंगे, तब बोलिए।...(व्यवधान)...

श्री कलराज मिश्र: हम लोग तो सकारात्मक तौर पर बोल रहे हैं।...(व्यवधान)...

श्री उपसभापति: जो मैम्बर अपना विचार रखना चाहते हैं, उनको रखने दो।...(व्यवधान)...

श्री कपिल सिब्बल: सर, मैं केवल इतनी बात कहना चाहता हूं...(व्यवधान)...हमने कभी अपने इतिहास में किसी टेरेरिस्ट को रिहा नहीं किया। Two of our national leaders, the most prominent leaders in this country were the victims of terrorism. हमने कभी ऐसा नहीं किया कि हम उनको हवाई जहाज में भी ले जाएं, उनको सैर भी कराएं।...(व्यवधान)... हमने कभी ऐसा नहीं किया।...(व्यवधान)...

श्री रघुनन्दन शर्मा: आप अफ़ज़ल को फांसी क्यों नही देते हो?...(व्यवधान)...

श्री कलराज मिश्र: आपको पता है,...(व्यवधान)... डेढ़ सौ, दो सौ लोगों को बचाया था।...(व्यवधान)...

श्री उपसभापति: अरे, बैठिए।...(व्यवधान)... वे आपकी जुबान तो नहीं बोलेंगे।...(व्यवधान)...

श्री कलराज मिश्र: मान्यवर, ये स्वयं provoke कर रहे हैं...(व्यवधान)... इनको तो कहिए कि अपने शब्दों को नियंत्रित करके बोलें।...(व्यवधान)...

श्री उपसभापति: आप तब बोलिए, जब आपकी बारी आए।...(व्यवधान)...

श्री कलराज मिश्र: ऐसे तथ्य हैं, जिनके आधार पर कहा जा सकता है कि आपने देश को कमजोर किया है।...(व्यवधान)... आपने देश को कमजोर किया है, यह कहा जा सकता है।...(व्यवधान)... और अभी तथ्य रखे जा सकते हैं।...(व्यवधान)...आप क्या बात कर रहे हैं?...(व्यवधान)...

श्री कपिल सिब्बल: मैं केवल इतनी ही बात कहूंगा ..(व्यवधान)....इतनी ही बात कहूंगा कि अगर...(व्यवधान)...

श्री रघुनन्दन शर्मा: अफ़ज़ल के समर्थन में बोल रहे हो, अफ़ज़ल के पक्ष में बोल रहे हो।...(व्यवधान)...

श्री उपसभापति: आप बैठिए।...(व्यवधान)...

श्री कपिल सिब्बल: अगर महमूद अज़हर को रिहा नहीं किया होता और वह पाकिस्तान नहीं गया होता, उसने जैश-ए-मोहम्मद नहीं बनाई होती, तो पार्लियामेंट पर अटैक भी नहीं हुआ होता।...(व्यवधान)...

श्री एस.एस. अहलुवालिया: अगर वह...(व्यवधान)... नहीं किया होता, तो आज नजारा दूसरा होता।...(व्यवधान)...

श्री कपिल सिब्बल: तो अटैक ही नहीं होता।...(व्यवधान)...

श्री एस.एस. अहलुवालिया: आपको मंत्री पद से इस्तीफा देना चाहिए था।...(व्यवधान)... Batala house पर खड़े होकर आप किसको सहायता कर रहे थे?...(व्यवधान)...

श्री उपसभापति: आप बैठिए, यह क्या हो रहा है?...(व्यवधान)... यह क्या हो रहा है?...(व्यवधान)... अहलुवालिया जी, यह क्या हो रहा है?...(व्यवधान)...

श्री एस.एस. अहलुवालिया: इतनी हिम्मत थी, तो इस्तीफा देते, फिर खड़े होते वहां पर। आपने उस टाइम गृह मंत्री को और दिल्ली पुलिस को कटघरे में खड़ा किया।...(व्यवधान)...

SHRI KAPIL SIBAL: When an hon. Member brought the issue about Mr. Antuley, there was nothing about the unlawful activities. It has nothing to do with it. He brought it up. If he can bring it up, can I not bring it up?...*(Interruptions)*... The problem is, if you had put your case before the House on the basis of law, I would have argued the law. But you tried to make out as if this Government has made India vulnerable. I am shocked at your statement. Is that a responsible statement in the context of the fact that we are trying together to fight terror? This is not fair and that is all I am saying. What is that that we are trying to do? We are trying to make sure that when a fight in respect of terror we must respect the basic constitutional principles that we are adhered to and we swear by and at the same time make sure that the laws do not brutalise society. These are the two balancing factors. We have tried the best that we could. You can have a difference of opinion and you can say that we do not agree with it and when you come to power you change it with the majority that you have but you cannot say that you have made this country vulnerable. That you cannot say in a debate like this, that is not the statement of a responsible person. That is all I am saying out of a party. That is all, nothing more I wish to say. You want to talk about the law, you differ on the law, you want to bring back the 'confession', and you bring back the confession. May I just end up by saying one thing? Sir, Kartar Singh case was decided by a majority of three to two and in 2005, 11 Supreme Case 600, this is what the Judges said about Kartar Singh. I may just quote this for you. This is what they said, they talked about Kartar Singh case "The Court thus merely emphasise the obvious and added a remark that the Court on several occasions awarded exemplary compensation to the victims at hands of the police." Para 54, the Constitution Bench judgement is binding on us, that is, Kartar Singh is binding on us. In fact, the ratio of the judgment applies with greater force to POTA as the guidelines set out by the Constitution Bench are substantially incorporated into Section 32. It is perhaps too late to seek reconsideration of the view taken by a majority of Judges of the Constitution Bench but as we see Section 32 a formidable doubt lingers in our minds, despite the pronouncement of Kartar Singh that pertains to the rationale and the reason behind drastic provision making the confession to a police officer admissible in evidence in a trial for the POTA detainee. Not I, not Congress Party, not UPA, it is the Supreme Court saying this. ....*(Interruptions)*... Many questions do arise and we are unable to find satisfactory or even plausible answers to them. We do not think that the comparative is with which the confession

could be extracted from the accused would be pleaded as justification." If it is so, should the end justify the means? Should the police officer be better trusted than a Magistrate? Does the magnitude and severity of the offence justify the entrustment of job of the recording of a confession to a police officer? Does it imply that it is easier to make an accused confess the guilt before a police officer so that it could pave the way for conviction in a serious offence? I find no direct answer to these questions either in Kartar Singh or the latest case of People's Unity. Not me, the Supreme Court is saying that do not give this power to police officers. So, if you want a confession under the Criminal Procedure Code, Section 164 gives you that right. You can take a confession before a Magistrate. That right is intact; you can get that confession. So, you can get that confession. So, the Supreme Court doubts it, Civil Liberty People doubt it, we have doubts about it and if we have done something reasonable, we made the country vulnerable! Is that the argument that if we do something reasonable we make the country vulnerable because it is not reasonable as far as you are concerned? It is this kind of debate, this polarised debate by which you want the outside world to know, to score political points which has destroyed the unity of this country and which has not enabled us to fight terrorism in the way we should. My request to you and to all the hon. Members of this House is that get out of that mindset. After all, everything evolves in life, including your thinking, including the way the political parties should think and should work. Mindset should also change. This is the law of the nature. Nothing is ever constant. I hope in the time to come and I have no mixed feelings about it, I have strong feelings that the NDA and the BJP are the nationalist people. In their heart they have the desire to protect the security of the nation. They may sometimes use that argument for political end. But, in your heart, I know that you too want to protect the nation. But, don't in that process destroy the unity of this country, which is fundamental to this country being together, not just extremism, not just terrorism but also all other challenges that we face. We are at the threshold of a new century and in that we need to get together to fight the scourge of terrorism together and unitedly. Thank you very much.

श्री उपसभापति: श्री अमर सिंह।

श्री अमर सिंह (उत्तर प्रदेश): उपसभापति महोदय, आपका बहुत-बहुत धन्यवाद। सबसे पहले मैं बहुत ही विनय से अपने सभी साथियों को कहना चाहूँगा कि अगर मेरी कोई भी बात बुरी लगे तो व्यवधान न डालें।

सबसे पहले मैं कपिल सिब्बल साहब की बात से शुरु करता हूँ। बदलाव जीवन का एक अपरिहार्य अंग है और सोच का बदलाव जरूरी है। इसलिए इस बदलते परिवेश में जो यह बदलता कानून आया है, तो पहले मैं स्पष्ट कर दूँ कि इस Anti-terror law का जो National Investigation Agency Bill और Unlawful Activities Prevention (Amendment) Bill, 2008 आज इस सदन में लोक सभा से पारित हो कर आया है, उसका हम समर्थन करते हैं।

कुछ बातें जो हमारे साथी अरुण जेटली जी ने कही हैं, उनकी कुछ बातों में बहुत तथ्य है। वह भी इसका समर्थन कर रहे हैं। आपके बिल का विरोध वह इसलिए कर रहे हैं कि मुझे लगता है कि इस पूरे मामले में, आतंकवाद से लड़ने के मामले में, प्रतिबद्धता और संकल्प की कमी नहीं है, लेकिन एक credit grabbing

spree है कि श्रेय किसको मिलेगा, आतंकवाद से लड़ने की क्षमता किसमें है, किसकी सोच है? जेटली साहब कह रहे हैं कि यह पोटा का ही एक बदला हुआ प्रारूप है, आप कह रहे हैं कि टाडा का प्रारूप जो है वह मकोका है। सवाल यह नहीं है कि किसने किसकी नकल की, लेकिन अगर नकल भी अकल से की है और अगर देश की सुरक्षा और संरक्षा हो रही है, तो इस अकल की नकल का भी मैं स्वागत करता हूँ, चाहे मकोका हो या कुछ भी हो। जहाँ तक सवाल यह है कि पोटा अगर नहीं रहेगा तो दोषी बच जाएँगे, पोटा नहीं रहेगा तो आतंकवाद रुकेगा नहीं, तो कलराज जी इस पर नाराज न हों। वह यहाँ बैठे हुए थे, चले गए। कलराज जी अगर बैठे होते तो मैं उनके सामने कहता कि वह चेयर पर रहते तो और अच्छा रहता। इस पोटा का कैसा गम्भीर इस्तेमाल सोटा की तरह किया जाना था, जब उत्तर प्रदेश में —क्योंकि सदन का नियम है कि जो यहाँ उपस्थित न हो तो उसका नाम नहीं लेना चाहिए। मुझे टोका जाए इससे पहले मैं बता दूँ कि उत्तर प्रदेश में जिनका शासन है और जिनके शासन के साथ कलराज जी भी सम्मिलित थे, लेकिन कलराज जी मेरे व्यक्तिगत मित्र हैं और रहेंगे। कलराज जी ने मुझे सूचित किया कि पोटा का सोटा आप पर चलने जा रहा है और हम आपको बचा रहे हैं तथा हम अपनी पार्टनर से कह रहे हैं कि पोटा का सोटा आप पर न चले। अब किसी भी सीमा में मैं अपनी आपबीती कह रहा हूँ कि मैं आतंकवादी तो नहीं, लेकिन पोटा का सोटा — जब कलराज जी एक सज्जन महिला के साथ मिल कर उत्तर प्रदेश का शासन चला रहे थे, तो पोटा का सोटा मुझ पर और मुलायम सिंह जी पर चलने की बात हुई थी। विधान सभा में भारतीय जनता पार्टी के जो सदन के नेता थे * ने सदन के पटल पर अधिकृत रूप से यह बात कही ...**(व्यवधान)**...

श्री उपसभापति: आप उनका नाम क्यों लेते हैं?

श्री अमर सिंह: ठीक है, मैं उनका नाम नहीं ले रहा हूँ।

श्री उपसभापति: यह नाम निकाल दीजिए।

श्री अमर सिंह: विधान सभा में सदन के नेता ने विधान सभा के पटल पर यह बात कही कि मुलायम सिंह और अमर सिंह पर पोटा का सोटा चलने वाला था। ठीक उसी तरह से रघुराज प्रताप सिंह — डॉ0 कर्ण सिंह जी यहाँ बैठे हैं। यह स्वयं राज परिवार से हैं और भद्री नरेश को जानते हैं। भद्री नरेश समाजवादी आंदोलन से सम्बद्ध नहीं थे। वह हिंदू महा सभा और आदरणीय भारतीय जनता पार्टी के वर्तमान अध्यक्ष के निकटतम मित्रों में से थे। भारतीय जनता पार्टी के वर्तमान अध्यक्ष जब उत्तर प्रदेश में मंत्री थे तो भद्री नरेश के परिवार ने उनके शासन को चलाने में उनके मंत्रिमंडल में सम्मिलित होकर बड़ी भूमिका भी निभायी थी। तो यह भी नहीं कह सकते हैं कि वह आतंकवादी हैं। आप राष्ट्रवादी लोग हो और राष्ट्रवादी लोग किसी आतंकवादी को थोड़े ही कैबिनेट स्तर का मंत्री बनाओगे? कई-कई बार आपने कैबिनेट स्तर का मंत्री भद्री राजपरिवार के राज कुंवर को बनाया, राजनीति में उनकी उपस्थिति ही आपने करवायी और जब आपने उनका शुद्धीकरण किया तो हमने उनको अंगीकार किया। तो उनके ऊपर भी, वही भद्र महिला जिनके संरक्षण में हमारे मित्र कलराज जी शासन कर रहे थे, उनके घर में उन्होंने एक हथियार रख दिया और हथियार रखकर बरामद भी कर दिया।

श्री ब्रजेश पाठक (उत्तर प्रदेश): माननीय उपसभापति जी, इस तरीके से सदन में अगर कोई बयान देता है तो यह गलत है। इस तरीके से जो बहस हो रही है।...(व्यवधान)... बहस हो रही है राष्ट्रीय जांच एजेंसी पर ...(व्यवधान)... इस तरीके से हम बर्दाश्त करने वाले नहीं हैं।

श्री अमर सिंह: मत करिए, आपको जो करना है करिए ...**(व्यवधान)**...

श्री उपसभापति: आप बैठिए ...**(व्यवधान)**... पाठक जी, आप बैठिए।

श्री ब्रजेश पाठक: यह कतई चलने वाला नहीं है। सदन में बहस होगी उस मुद्दे पर, जो विधेयक आया है या जो चाहेंगे बोलेंगे? ...**(व्यवधान)**... इसे डिलीट कीजिए।

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*Not recorded.

श्री उपसभापति: आप बैठिए। पाठक जी, आप बैठिए। आप सभी बैठिए ...(**व्यवधान**)... आप बैठिए। We should have some sense of tolerance.

SHRI AVTAR SINGH KARIMPURI (Uttar Pradesh): Sir, उनको समझाइए, ask him not to use uncivilized language...*(Interruptions)*...

श्री उपसभापति: आप बैठिए, प्लीज बैठिए। ...(**व्यवधान**)... प्लीज बैठिए न। आप बैठ जाइए। Nothing is going on record...*(Interruptions)*...

श्री अमर सिंह: सर, ऐसा है कि मैं अगर कोई असंसदीय भाषा बोल रहा हूं और अगर मैं असत्य बोल रहा हूं तो जो सज़ा हमको मिलनी चाहिए, उसके लिए ...(**व्यवधान**)...

श्री उपसभापति: अरे आप बैठिए ...(**व्यवधान**)...

श्री ब्रजेश पाठक: हथियार रखने का काम ...(**व्यवधान**)... अगर किसी के घर में हथियार बरामद हुआ है तो पुलिस अपनी जांच करेगी, कार्यवाही करेगी।

श्री उपसभापति: आप बैठिए, आप बैठिए। ...(**व्यवधान**)... यह सही नहीं है, आप बैठ जाएं। आप बैठिए, प्लीज बैठिए।

श्री ब्रजेश पाठक: इनको समळााइए कि कोई राजनेता किसी के घर में हथियार नहीं रखता।...(व्यवधान)...

श्री उपसभापति: यह क्या है, आप बैठिए न। ...(**व्यवधान**)... यह क्या बात कर रहे हैं? Nothing is going on record...*(Interruptions)*... प्लीज आप बैठिए, आप बैठिए। We should have some sense of tolerance. It is not possible for the Chair to direct the Member to speak only this language or that language. The Chair can only regulate the House. When some un-parliamentary expressions are used, we will delete them. He is independent to put his views. But, at the same time, he should concentrate on the subject...*(Interruptions)*... How can any Member get up and start saying whatever he wants? Why should be the Chair then? It is for the Chair to regulate, not any Member to intervene ...*(Interruptions)*...

श्री अमर सिंह: धन्यवाद, उपसभापति महोदय, मैं उत्तेजित साथी को विनम्रता से बताना चाहता हूं कि जिस बात पर उनको एतराज है, उस आरोप पर बाइज्जत राजा भद्री के राजकुंवर, हाईकोर्ट से जबलपुर में यह भी आरोप लगा, इसलिए मैं यह कहने का दु:साहस कर रहा हूं कि न्यायालय से तो बड़े नहीं हैं हमारे माननीय साथी सांसद? न्यायालय ने उनको उस आरोप से बरी कर दिया, जो आरोप उन पर लगाया गया था। तो जब न्यायालय ने बरी कर दिया कि वह अवैध हथियार रखा ही नहीं गया था, बरामद ही नहीं हुआ था, लेकिन जितने दिन "**पोटा**" का "**सोटा**" उनके ऊपर चला, उतने दिन की पीड़ा है। वह न्यायालय द्वारा बेकसूर सिद्ध किए गए, तो उस पीड़ा का क्या होगा? वह कह दें कि यह आरोप लगा कि उत्तर प्रदेश में वह न्यायालय को प्रभावित कर देंगे, बाहुबली हैं? ठीक है वह गड़बड़ व्यक्ति हैं आपकी नजर में, हम भी आतंकवादी हैं आपकी नजर में क्योंकि हम आपकी राजनीति के समर्थक नहीं हैं। तो अदालत उत्तर प्रदेश से हटकर मध्य प्रदेश में गयी और मध्य प्रदेश की हाईकोर्ट ने उनको बाइज्जत बरी कर दिया है। उनको राजनीति में लाए भारतीय जनता पार्टी के आदरणीय अध्यक्ष, मंत्री उन्होंने बनाया। उसके बाद हथियार बरामदगी में पोटा उस व्यक्ति पर आपके व्यक्ति के शासन-काल में लगा और अदालत ने उन्हें छोड़ा। अगर यह असत्य हो, तो आपका जूता, मेरा सिर। क्या आप अदालत के निर्णय को भी नहीं मानेंगे? ...(**व्यवधान**)... आप अदालत के निर्णय को भी नहीं मानेंगे और उसके बाद उत्तेजित होंगे, क्योंकि आपके बाहुबल के आगे तो मैं दीन, हीन, दुर्बल व्यक्ति हूँ। ...(**व्यवधान**)...

श्री उपसभापति: आप बैठिए। ...(**व्यवधान**)...

श्री ब्रजेश पाठक: आप किसी राजनेता का नाम मत लीजिए। ...**(व्यवधान)**...

श्री अमर सिंह: मैं नाम नहीं ले रहा हूँ। ...**(व्यवधान)**...

श्री उपसभापति: आप बार-बार क्यों उठ जाते हैं? आप बैठिए। ...(व्यवधान)

श्री अमर सिंह: मैं नाम नहीं ले रहा हूँ। आप क्यों समझाते हैं वह महिला है। ..(व्यवधान).. आप मत समझिाए। वह महिला नहीं है। ...**(व्यवधान)**... जब कर गए, तो डर नहीं। ...**(व्यवधान)**...

श्री ब्रजेश पाठक: आपका यह कहना कि कोई राजनेता। ...**(व्यवधान)**...

श्री उपसभापति: देखिए। ...**(व्यवधान)**...

श्री अमर सिंह: यह उन्नाव नहीं है कि आप हमको डराकर चुप करा देंगे। ...**(व्यवधान)**... यह उन्नाव नहीं है, जहां पर आपका बाहुबल चले। ...**(व्यवधान)**...

श्री ब्रजेश पाठक : बाहुबल की बात नहीं है, यह पूरे देश की बात है। ...**(व्यवधान)**... नेता क्यों हथियार रखेगा? ...**(व्यवधान)**...

श्री उपसभापति : मिस्टर पाठक। ...**(व्यवधान)**... Nothing will go on record. देखिए आप बैठिए। ...**(व्यवधान)**... सिर्फ अमर सिंह जी बोलेंगे, और कोई नहीं बोलेगा। ...**(व्यवधान)**... Nothing will go on record except...*(Interruptions)*... Please follow the decorum. The whole world is watching us. प्लीज आप बैठिए। You are all senior Members. What are you doing? People are watching you.

श्री अमर सिंह: मैंने पहले ही कहा था कि सत्य कटु होता है।

श्री उपसभापति: पाठक जी, आप इंट्रप्ट न करें। ...**(व्यवधान)**...

श्री अमर सिंह: सर, मैंने पहले ही कहा था कि सत्य कटु होता है और कटु सत्य कर्ण-प्रिय तो नहीं हो सकता। मैं इस राष्ट्रीय बहस को ढ़ीलाढ़ाला नहीं कर रहा हूँ। मैं पोटा के मिसयूज की बात, जो हमारे दोस्त कपिल सिब्बल जी कर रहे थे और जैसा कपिल सिब्बल जी कह रहे थे बात करते हुए, एक विशेष समुदाय, तो मैं अब वह भी नहीं कहूंगा कि कौनसा समुदाय, नहीं तो उस पर भी उत्तेजना आ जाएगी, एक विशेष समुदाय के विरुद्ध इसका उपयोग हुआ, दुरुपयोग हुआ। मैं यह अर्ज कर रहा हूँ कि एक विशेष समुदाय के विरुद्ध ही इसका उपयोग नहीं हुआ, बल्कि राजनैतिक प्रतिद्वंदियों के विरुद्ध भी हुआ। चलिए, आप कहते हैं एक महिला नाम न लें, तो अधिकारी ने किया, लेकिन अधिकारी ने, उस महिला के नेतृत्व में जो सरकार थी, उस समय किया और अदालत ने उनको बरी कर दिया। अब उनको जो पीड़ा हुई, उन पर जो पोटा का सोटा चला, उसका क्या होगा? मुझे याद है, जब संयुक्त अधिवेशन चल रहा था, तो उस संयुक्त अधिवेशन में वाइको साहब ने भी पोटा के पक्ष में मतदान दिया था और बाद में, मैत्रेयन साहब से मैं बहुत विनम्रता से अर्ज करना चाहता हूँ, क्योंकि अब वाइको साहब मैत्रेयन साहब के साथी हैं, वाइको साहब भी उसी पोटा के अंदर बंदी हो गए। इस घर को आग लग गई घर के चिराग से। पोटा बनाया और पोटा के शिकार हो गए। पोटा का सोटा उन पर भी चल गया। तो पोटा का सोटा सिर्फ एक विशेष समुदाय पर नहीं चला है, पोटा का सोटा राजनैतिक विरोधियों पर भी चला है। ...**(व्यवधान)**...

DR. V. MAITREYAN (Tamil Nadu): Now that he has raised this subject, I will have to answer. He says that it is a misuse. ...*(Interruptions)*... I say it is not a misuse. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Dr. Maitreyan, please sit down. ....*(Interruptions)*... No, nobody has a right to interrupt like this. ....*(Interruptions)*...

DR. V. MAITREYAN: But, Sir, he cannot quote wrongly. ....*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please sit down. Our rules do not permit to intervene like this when a Member is speaking. ....*(Interruptions)*...

DR. V. MAITREYAN: But he cannot mislead the House. ....*(Interruptions)*...

MR. DEPUTY CHAIRMAN: It is not for you to....*(Interruptions)*...

DR. V. MAITREYAN: But I have to defend my party. You cannot defend my party. ....*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Then, you must first seek permission from the Chair. ....*(Interruptions)*... It is not like that you just stand up and start speaking whatever you want to. ....*(Interruptions)*...

DR. V. MAITREYAN: I have the liberty. ....*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please don't assume that you are at liberty. ....*(Interruptions)*... You must first seek permission from the Chair. ....*(Interruptions)*...

श्री अमर सिंह: उपसभापति जी, मैं कभी-कभी बोलता हूँ, तो कोलाहल हो जाता है। यह मैत्रंेयन साहब तो मेरे दोस्त हैं।

श्री उपसभापति: नाम ही मैत्रेयन है।

श्री अमर सिंह: ऐसा नहीं कि तुमसे मुहब्बत नहीं रही, जज्बात में पहले-सी शिद्दत नहीं रही। ऐसी कोई बात नहीं है कि आपसे मुहब्बत नहीं है, लेकिन इस मुहब्बत में वह शिद्दत नहीं जो पहले होती थी। इसलिए मैं आपको बताना चाहता हूँ कि मैं यह नहीं कह रहा हूँ कि यूज हुआ या मिसयूज हुआ। मैं यह कह रहा हूँ कि एक समुदाय ने — वाईको साहब पॉलिटिकल आदमी हैं, हो सकता है आपने अच्छा यूज किया। आप जब कह रहे हैं— आजकल आपके साथ हैं— कि वह राष्ट्रवादी हैं, आपका मत होगा। लेकिन पोटा में वह भी बंद हुए और वह पोटा के वोटर ही थे। पोटा में हमारे भी एक राजनीतिक कार्यकर्त्ता, जो आज हमारे समर्थक हैं, कल तक वह भारतीय जनता पार्टी के राष्ट्रीय अध्यक्ष के प्रोटीज थे, वह भी बंद हुए। इसलिए पोटा का मिसयूज हुआ, उसमें मैं यह संदर्भित करना चाहता हूँ कि इसमें जो एक क्लाउज़ है "Notwithstanding anything contained in the Code, no person accused of an offence punishable under chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:" यह 437 है, "Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such a person is *prima facie* true." अब इसके अंदर एक विरोधाभास है मान्यवर। विरोधाभास यह है कि पेज 6 पर इसमें लिखा है कि "The failure to furnish the information called for under sub-section 1, or, deliberately furnishing false information shall be punishable with imprisonment for a term which may extend to three years or with fine or with both." "Notwithstanding anything contained in the Code, an offence under sub-section 2 shall be tried as a summary case and the procedure prescribed in Chapter XXI of the said Code (except sub-section 2 of section 262) shall be applicable thereto." तीन साल का आफेंस है। 30 साल का हो या उम्र कैद का हो, उसके लिए पनिशमेंट

एक-सा है। मैंने कोई अमेंडमेंट नहीं मांगा है। लेकिन हमारे गृह राज्य में इस तरह की धाराओं का, पोटा के मिसयूज होने की घटनाएँ हुई हैं। मैं किसी राजनीतिज्ञ का नाम नहीं लेना चाहता। यहाँ बड़ा कोलाहल हो रहा है। यह किसी अधिकारी द्वारा किया गया है। कल को फिर ऐसी स्थिति न हो, इसके लिए हमें कोई सेफगार्ड लेना चाहिए। वामपंथी साथियों ने जो अमेंडमेंट किये हैं, उसका विवरण मेरे पास नहीं है, लेकिन उनहोंने जो बताया है, उसको मैं देख लूँगा। मैंने उनके वक्तव्य को सुना, मुझे लगता है कि अगर इन अमेंडमेंट्स से बहुत अधिक आतंकवाद से लड़ाई में डायल्यूशन नहीं होता तो इस पर विचार कर लेने की आवश्यकता है। हमारे पास आज की इस परिस्थिति में — आज हमारे साथियों ने उत्तेजना में यह बात भी कही, हमारे दोस्त श्री कपिल सिब्बल पर आरोप लगाया। कल एक प्रश्न के उत्तर में — माननीय गृह मंत्री जी यहाँ उपस्थित हैं— उन्होंने कहा कि हमें शहीदों का अपमान नहीं करना चाहिए और पुलिस फोर्स में जो लोग हैं, उनको डिमोर्लाइज नहीं करना चाहिए। मैं उनकी इस बात से बिल्कुल सहमत हूं और उस संदर्भ में उन्होंने बाटला कांड में शहीद हुए श्री एम0सी0 शर्मा का नाम लिया। कल अपने वक्तव्य में — प्रश्न काल में लिया। मैं आज इस समय का उपयोग करते हुए स्पष्ट करना चाहता हूँ कि उनकी शहादत के बारे में मैंने कभी सुबहा या संदेह पैदा नहीं किया। वह ड्यूटी पर गये और ड्यूटी पर जो भी व्यक्ति अपना काम करते हुए शहीद होता है, वह शहीद होता है। न तो कभी कपिल सिब्बल साहब ने इस आशय का सार्वजनिक बयान दिया कि उनकी शहादत में कोई प्रश्न-चिन्ह है। सिविल लिबर्टी ग्रुप, बड़े-बड़े अखबारों और न्यूज चैनल्स ने उस एनकाउंटर के बारे में एक संदेह प्रकट किया। हम लोगों ने यह नहीं कहा कि वह एनकाउंटर सही है या गलत है। मैं आपके माध्यम से देश के सामने आज स्पष्ट कर देना चाहता हूँ। हम लोगों ने यह कहा कि उसकी जांच हो जाए ताकि एक समुदाय के अंदर जो एक आशंका है, वह निर्मूल सिद्ध हो। बाद में, मुम्बई की घटना में, जो कि बहुत बड़ी घटना हुई और जिस घटना में सैंकड़ों निर्दोष लोग मारे गए और एक देश के ऊपर आक्रमण हुआ, करकरे साहब की मौत हुई। मैं अपने भारतीय जनता पार्टी के साथियों से कहना चाहता हूँ कि करकरे साहब की मृत्यु से दो दिन पहले "महाराष्ट्र बंद" का आह्वान किया गया। और महाराष्ट्र बंद का आह्वान इस आधार पर किया गया कि करकरे साहब हिन्दू विरोधी हैं और करकरे साहब के नेतृत्व में साध्वी प्रज्ञा के साथ गलत सी0डी0 दिखाई गई और जब वे गिरफ्तार थीं तो उनके साथ गलत व्यवहार किया गया और इसके विरोध में **...(व्यवधान)...**

श्री एस0एस0 अहलुवालिया: Please yield for a minute.

सर, मैं आज दोपहर को zero hour में भी यही सवाल उठाना चाहता था और मैं बताना चाहता हूं कि जिस दिन वहां पर गोलियां चल रही थीं उस दिन पाकिस्तान का एक चैनल है — *न्यूज़ वन*, उस *न्यूज़ वन* चैनल में एक प्रोग्राम आ रहा था और उस प्रोग्राम में एक Defence Analyst को बिठाया हुआ था। *न्यूज़ वन* चैनल के उस प्रोग्राम में पहले श्री जेठमलानी जी को दिखाया गया, उन्होंने बयान दिया कि यह पाकिस्तान नहीं कर सकता है और खासकर jews को नहीं मार सकता है, Jews को मारने से उसके consequences क्या हैं, पाकिस्तान जानता है। उसके बाद उन्होंने कहा कि जो 9 लोग मारे गए हैं और जो 10वां पकड़ा गया है, जो अभी जेल में है, उसने हाथ में Saffron band बांध रखा है, वह हिन्दू है, मुसलमान लोग band नहीं बांधते। मैं देख रहा हूं कि कल अन्तुले साहब उसी प्रैस कांफ्रेंस का हवाला देते हुए उनको मदद दे रहे थे, आज अमर सिंह उसको मदद दे रहे हैं, यह दुर्भाग्य है। **...(व्यवधान)...** ऐसी ताकतें जो देश के शहीदों के खिलाफ **...(व्यवधान)...**

श्री अमर सिंह: यह गलत आरोप है, हमने तो कहा ही नहीं **...(व्यवधान)...** आप मेरी बात सुनिए। **...(व्यवधान)...**

श्री एस0एस0 अहलुवालिया: क्या बात सुनें। **...(व्यवधान)...** जिस टाइम शहादत हो रही थी, जिस टाइम लोग मारे जा रहे थे, उस वक्त पाकिस्तान चैनल प्रचार कर रहा था हिन्दुस्तान के खिलाफ और आप खड़े होकर **...(व्यवधान)...**

श्री अमर सिंह: हमने यह नहीं कहा है, आप गलत आरोप लगा रहे हैं। ...**(व्यवधान)**... हमने यह कहा ही नहीं जो आप कह रहे हैं। ...**(व्यवधान)**...

श्री एस0एस0 अहलुवालिया: और आप क्या कह रहे हैं? आप कह रहे हैं करकरे साहब को एक दिन पहले ...**(व्यवधान)**... एक दिन पहले ...**(व्यवधान)**...

श्री अमर सिंह: मेरी बात तो सुनिए। ...**(व्यवधान)**...

श्री एस0एस0 अहलुवालिया: शहादत के दिन क्या हो रहा था, उसके बारे में बोलिए। ...**(व्यवधान)**... उसके बारे में बोलिए। ...**(व्यवधान)**...

श्री अमर सिंह: अहलुवालिया जी, देखिए ...**(व्यवधान)**...

श्री एस0एस0 अहलुवालिया: एक तरफ ए0आर0 अन्तुले बोलता है, दूसरी तरफ कपिल सिब्बल बोलता है, तीसरी तरफ अमर सिंह बोलता है ...**(व्यवधान)**...

श्री उपसभापति: अहलुवालिया जी, आपका जब नम्बर आएगा तब आप बोलिएगा। ...**(व्यवधान)**... The people you have talked about ...(Interruptions)...

श्री अमर सिंह: अन्तुले साहब के बयान के साथ मैंने कोई बयान नहीं दिया है। ...**(व्यवधान)**... मेरी बात सुनिए। ...**(व्यवधान)**...

श्री वी0 हनुमंत राव (आन्ध्र प्रदेश): आप पाकिस्तान का चैनल क्यों देखते हो? ...**(व्यवधान)**...

श्री एस0एस0 अहलुवालिया: मैं सारी दुनिया के चैनल्स देखता हूं, वह मेरा राइट है। ...**(व्यवधान)**... मैं अपने को educate करने के लिए सारी दुनिया के चैनल्स देखता हूं, उसमें क्या है। ...**(व्यवधान)**...

श्री उपसभापति : अहलुवालिया जी, यह क्या हो रहा है? ...**(व्यवधान)**... You see, we are diluting the debate. We are diluting the debate. ...*(Interruptions)*... मिस्टर अहलुवालिया, अब अमर सिंह जी बोल रहे हैं, now, it is his point of view; he is placing it. Allow him to place his point of view.

SHRI S.S. AHLUWALIA: Sir, again and again, he is blaming the BJP. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: You blame him and he blames you. ...*(Interruptions)*... How can I conduct the Business of the House? ...*(Interruptions)*... Why are you getting angry? ...*(Interruptions)*... What is this? ...*(Interruptions)*... Mr. Ahluwalia, if he blames the BJP, what is it that I can do? You have to take it and if you blame him, he has to take it. ...*(Interruptions)*...

SHRI SITARAM YECHURY: Sir, our appeal is, you please conduct this debate in the orderly fashion.

MR. DEPUTY CHAIRMAN: No; no; Members have to cooperate. If we use the Rules of Procedure, the Members protest. When we use it, they would protest. When we don't want to use that and appeal to the Members, they don't cooperate.

SHRI SITARAM YECHURY: But, Sir, the procedure is very clear. If you have given the permission to somebody to speak, ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Every Member knows about it, but still they do it.

SHRI SITARAM YECHURY: No; unless Mr. Amar Singh yields, nobody else can intervene.

MR. DEPUTY CHAIRMAN: That is not going on record. But still they disturb it.

SHRI S.S AHLUWALIA: You tell him to speak on the subject. There are two Bills. ...*(Interruptions)*... You speak on the subject. You are a lawmaker. ...*(Interruptions)*...You are a law-maker. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Ahluwalia, please sit down. ...*(Interruptions)*...

SHRI SITARAM YECHURY: When I spoke, I spoke on the two Bills. ...*(Interruptions)*...

SHRI S.S. AHLUWALIA: You spoke on the Bills. He should also speak on the Bills. Why is he not speaking on the Sections of these Bills? ...*(Interruptions)*... Let him speak on that. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Ahluwalia, you should speak on the Bill. ...*(Interruptions)*... Why are you addressing it to him? ...*(Interruptions)*...

श्री एस. एस. अहलुवालिया: सर, मेरा एक submission सुन लीजिए, यह बात मैं पहले से भी कह रहा हूँ, जिस दिन इसकी चर्चा हुई थी कि इस पर discussion होगी, तब मैंने कहा था कि भाई हम चर्चा करना चाहते हैं, we are law maker, we have to make a fruitful law. उसे पास करने के लिए हम legislation पर discuss करेंगे। किसी ने कहा कि साहब, संसद पर हमला हुआ था ...**(व्यवधान)**..., ऐसा क्यों किया। मैंने कहा कि देखिए, अगर संसद की तरफ जाएंगे ...**(व्यवधान)**... ।

MR. DEPUTY CHAIRMAN: यह क्या बात है ...**(व्यवधान)**... । No, no; this is not allowed. Nothing will go on record. ...*(Interruptions)*...

श्री एस. एस. अहलुवालिया : *

MR. DEPUTY CHAIRMAN: Mr. Ahluwalia, please sit down. ...*(Interruptions)*...

SHRI S.S. AHLUWALIA: *

MR. DEPUTY CHAIRMAN: No, no; this also will not go on record. ...*(Interruptions)*... Nothing will go on record. ...*(Interruptions)*...

अहलुवालिया जी, आप बैठिए ..(व्यवधान)..।

SHRI S.S. AHLUWALIA: What is this, Sir? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Ahluwalia, please sit down. ...*(Interruptions)*...

SHRI S.S. AHLUWALIA: What is this, Sir? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Ahluwalia, please sit down. ...*(Interruptions)*...

SHRI SITARAM YECHURY: *

SHRI S.S. AHLUWALIA: *

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*Not recorded.

MR. DEPUTY CHAIRMAN: I am sorry......*(Interruptions)*... I am sorry that the Members are taking.......*(Interruptions)*... यह क्या हो रहा है ...**(व्यवधान)**... I

श्री एस.एस. अहलुवालिया: सर, माननीय सदस्य बिल पर बोले ...**(व्यवधान)**... I

श्री उपसभापति: क्या बोलना है, यह मैं भी नहीं बोल सकता हूँ, आप rules बताइए ...**(व्यवधान)**... I I will definitely apply the rules. ....*(Interruptions)*...

श्री अमर सिंह: मैं बिल पर ही बोल रहा हूँ ...**(व्यवधान)**... I

श्री उपसभापति: आप बैठिए ...**(व्यवधान)**... I अगर कोई पोटा के ऊपर बोलता है और वह पोटा का experience बताता है, तो आप कहते हैं कि यह नहीं बोलना है, यह क्या बात है ..(व्यवधान)..I Everybody has a right to speak. ...(Interruptions)... आप बैठिए ..(व्यवधान)..I Don't defend him. ...(Interruptions)...

श्री अमर सिंह: महोदय, श्री एस.एस. अहलुवालिया जी मेरे दोस्त हैं, इसलिए मैं yield कर गया और अगर मुळो पता चलता कि ये दोस्ती निभाएंगे, तो मैं yield नहीं करता। दूसरी बात मैं यह बताना चाहता हूँ कि अब मैं श्री अरुण जेटली जी को कभी embarrass नहीं करुंगा ...**(व्यवधान)**... I

MR. DEPUTY CHAIRMAN: In this, everybody takes time. ...*(Interruptions)*... And they are encroaching upon others' time.

श्री अमर सिंह: महोदय, समय नहीं है, इसलिए मैं अपनी बात जल्दी ही समाप्त कर रहा हूँ। मैं यह कहना चाहता हूँ कि मैंने श्री अन्तुले जी के बयान का समर्थन नहीं किया और न ही श्री राम जेठमलानी जी की तरह पाकिस्तान टी.वी. को, जैसा वे कह रहे हैं, कोई बयान दिया है। मैं सिर्फ इतना ही कह रहा हूँ कि शहीद की शहादत सदा स्थाई होती है। एक दिन बाद जिस शहीद की शहादत के लिए कोई बड़ा नेता एक करोड़ रुपए का पुरस्कार देता है, उसी शहीद के बारे में उसके जीवन काल में महाराष्ट्र बंद का नारा देता है, मैं यही बिन्दु कह रहा था। इस गंभीर मसले की चर्चा की रूपरेखा का निर्धारण श्री अरुण जेटली जी ने किया है। श्री अरुण जेटली जी ने अपने बहुत सारगर्भित व्याख्यान में इस बिल का समर्थन करने के साथ-साथ इस बात की भी चिंता दिखाई और इस बात की व्यग्रता दिखाई कि इसका श्रेय भारतीय जनता पार्टी और एनडीए को मिले और यूपीए discredit हो।

महोदय, मैं आपको बताना चाहता हूँ कि मैं साढ़े चार साल तक बड़ी बुरी तरह से यूपीए से लड़ता रहा हूँ, उनसे हमारी कोई मित्रता नहीं रही और आज हमारे ऊपर खड़े होकर श्री अन्तुले साहब के बयान के साथ मेरा बयान जोड़ दिया गया, जब कि मैंने ऐसा कुछ भी नहीं कहा है और न अब कह रहा हूँ, बल्कि मैंने कल गृह मंत्री जी द्वारा दिए गए बयान पर, जिसमें श्री एम.सी. शर्मा जी का जिक्र इसी आतंकवाद के प्रश्न के उत्तर में किया था, उसमें आपके माध्यम से मैंने इस मंच को अपने स्पष्टीकरण के लिए इस्तेमाल किया है, क्योंकि गृह मंत्री जी का यह बयान था कि पुलिस फोर्स को demoralise मत कीजिए। हमारा भी अरुण जेटली जी से आग्रह है, प्यारे दोस्त अहलुवालिया जी से भी आग्रह है कि कभी-कभी हमारा मूल्यांकन गलत हो जाता है, जैसे आपका मूल्यांकन करकरे के लिए गलत हो गया और आपने महाराष्ट्र बंद का आह्वान कर दिया। दो दिन बाद पता चला कि आपके ही नेता एक करोड़ रुपए देने पहुंच गए। उसी तरह से हो सकता है कि हमारा भी मूल्यांकन श्री एम.सी. शर्मा के लिए गलत हो गया हो ...**(व्यवधान)**... I

महोदय, मैं कहना चाहता हूँ कि "वो जख्म मुझे याद आने लगे हैं, जिन्हें हमें भुलाने में जमाने लगे हैं", इसलिए आप स्यालकोट को याद मत कीजिए, अब आप हिन्दुस्तान को याद कीजिए और हिन्दुस्तान की हिन्दुस्तानीयत को याद कीजिए। जब हम राजनीति की बात कर रहे हैं, तो जब श्री कपिल सिब्बल और कांग्रेस के तमाम नेताओं ने judicial probe की मांग की, चूंकि उस समय चुनाव चल रहा था, कांग्रेस सरकार के ऊपर बड़ा दबाव आया, श्रीमती सोनिया गांधी के ऊपर दबाव आया, प्रधान मंत्री डा. मनमोहन सिंह के

ऊपर दबाव आया, लेकिन उन्होंने judicial probe की मांग को स्वीकार नहीं किया। उन्होंने कहा कि हम अपनी पुलिस फोर्स को demoralise नहीं होने देंगे, जिन्होंने यह काम किया है, हम उनका समर्थन देंगे। यदि judicial probe का आदेश दे दिया जाता तो वह populist तो अगर यू.पी.ए. की सरकार, कांग्रेस की सरकार अगर पॉपुलिस्ट और वोट बैंक की राजनीति करती, उस समय आतंकवाद का पोस्टर बनाकर, आतंकवाद का इंधन जलाकर, पूरी की पूरी राजनीति और विज्ञापन ... जब ऑपरेशन पूरा नहीं हुआ था, जब ऑपरेशन चल रहा था, तो ऑपरेशन के चलते हुए, गोलियों की तड़तड़ाहट के बीच बड़े-बड़े विज्ञापन ....क्षमा कीजिएगा, विनय के साथ कहता हूं, आपकी तरफ से निकाले गए और आतंकवाद को परोसकर मतदाताओं को देने की आपकी राजनीति उसको नकार दी गई। मान्यवर, यह कोई राजनीति नहीं है। मैं आपको बिल्कुल embarrass नहीं करूंगा। मैं फिरकापरस्ती और संप्रदायवाद में जुड़ने से अच्छा मर जाना समझूंगा।

"रोशनी के लिए घर जलाना पड़ा,
कैसी ज़ुल्मत बढ़ी, तेरे जाने के बाद।
दुश्मनों से पशेमान होना पड़ा,
दोस्तों का खुलूस आजमाने के बाद..."

कुछ माननीय सदस्य: क्या बात है ! बहुत खूब !

श्री अमर सिंह: इसलिए मैं यह कहने आया हूं... मैंने ज़रूर यह बात कही है - कपिल सिब्बल जी की बात कि यह पोटा नहीं है और पोटा में गृह मंत्री जी ने मुख्यतः हमें जो विस्तार से बताया था कि पुलिस अधिकारियों के समक्ष दिया गया जो बयान है, वह admissible नहीं होगा और जो हमारे अन्य संशय थे, उनको स्पष्ट करते हुए उन्होंने कहा था कि इन सारे संशयों पर ध्यान दिया जाएगा।

दूसरी बात मैं कहना चाहता हूं कि आज की परिस्थिति में मानव अधिकार से ज़रूरी है, मानव के जीवन की रक्षा। मानव अधिकार तब रहेगा, जब मानव रहेगा। संसद भवन बचेगा, संसद सदस्य बचेंगे, तो फिर संसदीय प्रणाली और राजनीति बचेगी। आज के दिन जो विषम परिस्थिति है, इस विषम परिस्थिति में संसद पर हमला हो चुका है, हमारा भाग्य अच्छा था कि हम बच गए ! आज के दिन देश पर हमला हो चुका है, दस आतंकवादी आए हैं और वे हमला कर चुके हैं। रहा सवाल यह कि पोटा से जान बचेगी, तो मैं यह पूछना चाहता हूं - मौलाना मसूद अजहर के समय पोटा भी था, जेल के अंदर भी थे, वर्तमान सरकार ने दो सौ लोगों की कुर्बानी दे दी, लेकिन किसी को अफगानिस्तान ले जाकर, सजा-धजा कर दुश्मन को पेश नहीं किया ! सबसे बड़ी बात तो यह है कि "My country, my life" एक पुस्तक भारतीय जनता पार्टी के प्रतिपक्ष के नेता ने लिखी है, नाम नहीं ले रहा हूं क्योंकि वे सदन के सदस्य नहीं हैं। उन्होंने बहुत अनुग्रह के साथ वह किताब मुळो सप्रेम भेंट की। उस किताब को मैं पढ़ रहा था। उस किताब में वे लिखते हैं कि यह पूरी घटना जो हुई है, वे गृह मंत्री थे, उसकी जानकारी उनको नहीं थी, और इसी सदन के नेता हैं — जसवन्त सिंह जी, उनसे बात करो, तो वे कहते हैं कि क्या यह संभव है कि बिना गृह मंत्री की जानकारी के एक आतंकवादी चला जाए? तो लाल किले पर हमला कब हुआ? अक्षरधाम पर हमला कब हुआ? संसद पर हमला कब हुआ? और मौलाना मसूद अजहर जो कि जैशे मोहम्मद और लश्करे तैयबा का पितामह, प्रपितामह है, जिसके नेतृत्व में सारी यह जखीरे की जखीरे बंदी हो रही है, उसको किसने छोड़ा?

उपसभापति महोदय, अब आज हम या तो अपने इतिहास को देखें, इतिहास के प्रतिबिम्ब को देखें, या हम वर्तमान में जीवित रहें — यह आतंकवाद एक ऐसा दानव है, ऐसा दशानन है — रावण की तरह इसके दस सिर हैं। एक सिर काटो तो दूसरा, दूसरा काटो तो तीसरा, तीसरा काटो तो चौथा पैदा हो जाता है। *..(समय की घंटी)...* इसलिए मैं अनुरोध करता हूं कि आतंकवाद के प्रश्न और इन दो कानूनों के प्रश्न पर हो सकता है कि यह Federal law है, इससे राज्य के अधिकारों में कुछ कटौती हो ! हो सकता है कि मानव अधिकारों में भी कुछ संकुचित दृष्टिकोण अपनाना पड़े ! हो सकता है कि हमें कुछ समझौते करने पड़ें!

सब समझौते हमें करने पड़ेंगे, क्योंकि राजनीतिक दल और राजनीतिक नेता के रूप में, जनता के बीच में हमारी विश्वसनीयता बिलकुल खत्म हो चुकी है और इस विश्वसनीयता को पाने के लिए, हमें कुछ खोने के लिए तैयार रहना पड़ेगा, अपनी दृष्टि को बदलना पड़ेगा। इसलिए हम सब यह संकल्प लें कि हम "मैं-मैं" नहीं करेंगे। आप "मैं" करेंगे, मैं "मैं" करूंगा, ये "मैं" करेंगे, हमारे पीछे एक साथी आ गए हैं, बहुत बाहुबली हैं, उनसे मुझे बहुत डर लगता है, मैं आपका संरक्षण चाहता हूं, तो वह "मैं-मैं" होगी चारों ओर! इसलिए इस "मैं-मैं" से अच्छा है कि हम "हम" की राजनीति करें – "ह" से हिंदू और "म" से मुसलमान। जब तक हिंदू और मुसलमान मिलकर कौमी एकता नहीं बनाएंगे और हम वोट बैंक की राजनीति नहीं, हिंदुस्तान की राजनीति नहीं करेंगे, जब तक हम आतंकवाद के हमले को पाकिस्तान का हमला हिंदुस्तान के ऊपर नहीं मानेंगे, जब तक हम इसे इस्लाम का हमला हिंदुत्व पर करके अपनी राजनीति की और सियासत की रोटी सेंकेंगे, समाज और देश को टुकड़े-टुकड़े में बांटेंगे, तो आप कितना भी कानून बना लें, पोटा बना लें, मकोका बना लें और कोई भी आमूल-चूल परिवर्तन कर लें, क्रांति ले आएं, आतंकवाद के दानव से, इस रावण से हम निपट नहीं सकते। ये दस लोग मर गए हैं, लेकिन इन दस का कोई न कोई पर्याय, कहीं न कहीं फिर ज़िंदा हो गया है। और वह देख रहा है कि अरुण जेटली क्या कह रहे हैं, कपिल सिब्बल क्या कह रहे हैं, अमर सिंह क्या कह रहे हैं। अरुण जेटली को अमर सिंह से बात करने में embarrassment है, अमर सिंह को अरुण जेटली से बात करने में लज्जा आती है कि हम मर जाना बेहतर समझेंगे। अगर हिन्दुस्तान की यही बंटी हुई तस्वीर है तो हम आतंकवाद से नहीं लड़ सकते। आतंकवाद से लड़ने के लिए हम सब लोगों को – "वसुधैव कुटुम्बकम" – जो हमारी विरासत है, जो हमारा सिद्धांत है, जो हमारी आत्मा का मूल है, उस पर मिल-जुलकर, एक होकर आतंकवाद से लड़ना चाहिए। इसके लिए मैं आदरणीय आडवाणी जी को साधुवाद देना चाहता हूं कि उन्होंने हमारे दोस्त अरुण जेटली के आचरण और पद्धति के प्रतिकूल ऐसा भाषण दिया जो प्रतिस्पर्धा का भाषण नहीं था, जो एक बड़े नेता का वक्तव्य था, जिसने इस बात के लिए बाध्य किया कि श्री प्रणब मुखर्जी, डा0 मनमोहन सिंह और सोनिया गांधी जी उनको जाकर बधाई दें। मुझे उम्मीद थी कि अरुण जेटली जी भी कुछ ऐसा ही आचरण करेंगे, लेकिन वे वकील हैं, उन्होंने आज संसद के इस गरिमामय भवन पर और इस स्थान पर एक बहुत अच्छे, तार्किक और बड़े वकील के रूप में बहुत अच्छा प्रदर्शन किया। उन्हें श्रेय भी मिलना चाहिए। अंत में मैं यही कहूंगा कि उन्हें आतंकवाद से निपटने का एकमात्र मुखिया और सूत्रधार आप मान लीजिए। अगर इससे आतंकवाद रुकता है तो वह रुकना चाहिए। धन्यवाद।

SHRI KAPIL SIBAL: Sir, the hon. Member, Shri Amar Singh, has mentioned my name in respect of a particular incident in the Batala House. He said that I had made a public statement. I just want to put the record straight that I went there; I saw what had happened; reported it back to my leaders. But I never made any statement in the Press at any point of time since then. Anything attributed to me in respect of any statement that I made is completely wrong because I have never made such a Statement.

SHRI SITARAM YECHURY: Sir, the amendments that we have submitted have not been circulated. Let these amendments be circulated.

श्री उपसभापति: सरकुलेट हो गया है।

श्री सीताराम येचुरी: यहां पर कहीं नहीं आया।

श्री ब्रजेश पाठक (उत्तर प्रदेश): धन्यवाद उपसभापति महोदय, आज देश के अंदर आतंकवाद को रोकने के लिए राष्ट्रीय जांच एजेंसी के गठन के लिए जो विधेयक लाया गया है, बहुजन समाज पार्टी की तरफ से हम

उसका समर्थन करने के लिए खड़े हुए हैं। हमारे सीनियर मैंबर्स काफी देर से बहस कर रहे थे और मैं बहुत गौर से सुन रहा था। मुळो ऐसा महसूस हो रहा था कि आतंकवाद के खिलाफ लड़ाई न होकर सदन के अंदर एक-दूसरे के दलों के खिलाफ लड़ाई लड़ी जा रही है। सदन के अंदर किसी सीनियर मैंबर ने अगर कोई बात कही, पोटा के संबंध में या किसी पिछले कानून के संबंध में, तो हमारी समळा में — पहले तो सदन के बाहर जितने भी लोग टीवी पर या पत्रकारों को भाषण देते हैं कि पहले हमें देश में प्रतिबद्धता और एकजुटता दिखानी चाहिए — लेकिन इधर हम शर्मसार हुए। मैं जूनियर मैंबर हूं और नौजवान हूं। हम सभी लोगों से केवल यही अपील करना चाहते हैं कि पीछे जितने लोग देश में आप सबको और हम सबको देख रहे हैं, वे सब चाहते हैं कि देश के माननीय सांसदगण पहले आतंकवाद के प्रति अपनी प्रतिबद्धता जाहिर करें कि उसे दूर करना है और आपसी लड़ाई दूर कर दें क्योंकि आतंकवाद का मुद्दा जहां आता है, कोई भी कानून बने, उसका समर्थन करने के लिए हमें हमेशा तैयार रहना चाहिए, खड़े रहना चाहिए। कोई भी कानून कितना भी कड़ा बना लिया जाए लेकिन आतंकवाद को रोकने के लिए पहले हमें दृढ़ इच्छा शक्ति को प्रदर्शित करना पड़ेगा। कड़े कानून बनाए जाने से कभी भी आतंकवाद रुकने वाला नहीं है क्योंकि विदेशी धरती से जो आतंकवाद पनपा है, वे मानते हैं कि उनको जान देकर भी इधर टेररिज्म फैलाना है। हमें पहले अपनी दृढ़ इच्छा शक्ति को मज़बूत करना पड़ेगा और यह तय करना पड़ेगा कि हमें वोट बैंक का ध्यान कतई नहीं रखना है, देश के आगे सारे मुद्दे गौण हो जाएंगे, बौने हो जाएंगे, हमें पहले आतंकवाद को जड़ से मिटाना पड़ेगा। पिछली सरकार एनडीए की सरकार थी, उसका भी ढुलमुल रवैया रहा। उसने भी आतंकवाद के प्रति अपने कड़े रुख को कभी प्रदर्शित नहीं किया, जिससे आतंकवादियों के हौंसले लगातार बढ़ते रहे। वर्तमान में यूपीए की सरकार है। मुम्बई में जब आतंकवादियों ने हमला किया, टेलीविज़न चैनल्स पर कुछ घंटे तो यही आता रहा कि दो गुटों में फायरिंग हो रही है। खुफिया एजेंसियों ने भी जानकारी दी, मछुआरों ने भी जानकारी दी लेकिन हम इतनी बड़ी घटना को रोकने में नाकाम रहे क्योंकि हमारे अंदर इच्छाशक्ति की कमी थी। हमारी अंतर्राष्ट्रीय सीमाएं सुरक्षित नहीं रह गई हैं। जितने भी विदेशी आतंकवादी आते हैं, वे किसी न किसी अंतर्राष्ट्रीय सीमा से ही आते हैं। उन सीमाओं को हमें सुदृढ़ करने के बारे में सख्ती से निर्णय लेना पड़ेगा और हमारे खुफिया तंत्र को भी मजबूत करना पड़ेगा। जब खुफिया सूचनाएं हमें पर्याप्त समय पर मिल पाएंगी, तो हम ऐसे लोगों को वहीं पर खदेड़ने का काम करेंगे, आतंकवादियों को उनकी धरती पर ही मिटाने का काम कर सकेंगे। हमें आधुनिक उपकरण भी देने पड़ेंगे, हथियार भी देने पड़ेंगे, तभी हम उनसे लड़ पाएंगे। साजो-सामान के बगैर भी हम लड़ नहीं सकते। यह जो कानून हम लाए हैं, संसद में पास करने के बाद जो कानून का रूप लेगा, इसमें स्पष्ट करना पड़ेगा कि यह जांच एजेंसी, क्या सूचनाएं एकत्रित करने का भी काम करेगी या केवल घटना घटने के बाद ही अपना काम करेगी, इसको भी हमें स्पष्ट करना चाहिए। इसके अंदर दूसरा सबसे बड़ा पहलू यह है कि अगर किसी राज्य सरकार के साथ किस तरीके से इसका समन्वय किया जाएगा, उसका भी इसमें स्पष्ट उल्लेख नहीं किया गया है। अगर अपने देश के कोई व्यक्ति का विदेशी आतंकवादी से संबंध जगजाहिर हो जाता है और खुफिया एजेंसी मान लेती है कि यह शख्स विदेशी आतंकवादी से जुड़ा हुआ है, तो उसके खिलाफ कैसे कार्रवाई की जाएगी तथा हम राज्य सरकार को सूचना देंगे या नहीं देंगे, उसका भी इसमें स्पष्टीकरण करना समीचीन होगा। दूसरा, सबसे इंपोर्टेंट विषय यह है कि हम जिनको इनकी जिम्मेदारी देने जा रहे हैं उनको हमें आर्थिक सहूलियतें भी देनी पड़ेंगी, जिसको इस टीम में लगाने जा रहे हैं, इनको मजबूत करना पड़ेगा और देखना पड़ेगा कि उनकी आर्थिक स्थिति हम किस तरीके से मजबूत कर सकते हैं, जिससे वे स्वतंत्र होकर, निष्पक्ष होकर अपना काम कर सकें। जिस तरीके से उत्तर प्रदेश के अंदर हमारी बहन कु0 मायावती जी ने एस0टी0एफ0 तथा ए0टी0एस0 का गठन करते हुए उनको 30 परसेंट अधिक वेतन देने का निर्णय लिया है, जब तक हम उनको अधिक सुविधाएं नहीं देंगे, अधिक साजो-सामान नहीं दे पाएंगे, वे स्वतंत्र रूप से ठीक ढंग से काम नहीं कर पाएंगे। इन्ही सब बातों के साथ इस बिल का मैं समर्थन करते हुए अपनी बात समाप्त करता हूं।

THE MINISTER OF STATE IN THE DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION, MINISTRY OF COMMERCE AND INDUSTRY (SHRI ASHWANI KUMAR): Mr, Deputy Chairman, Sir, thank you for giving me this opportunity to intervene in this debate which, I believe, is critical for more reasons than one. Sir, I am mindful of the fact that this debate is taking place in the wake of unprecedented onslaught on the integrity of the Indian State. This debate is taking place in view of the national resolve to present a united country in our fight against terror. It is for this reason that I would seek to make my comments in a manner that unites this House, to take on the challenge of terror, rather than to indulge in any divisive polemics. We are not here today to make points against each another, nor is the people's court a court of law where the debate should regress or recede into legalese. This is a debate which the nation is watching, watching us deliver on the promise of a unified resolve against the terrorist onslaught on the conscience of this country. With this caveat, I rise not only to support the Bill but also to thank the entire Opposition for supporting the measure in principle. I know that there are large areas of agony, both as to the content of the Bill as well as the intention behind it. Here, I would say, Sir, the glory of this nation, as a united country, had been brought forth in this debate in the Lok Sabha, and I would hasten to add that we expect the same unity of purpose in the Upper House. I never knew in 1977, when I wrote my doctoral dissertation on 'Legal Control of International Terrorism that some day as lawmaker in this House, I would need to take part in this debate. But, I am indeed fortunate to be able to include in my comments some of the lessons that I learnt at that time, in my study of terrorism, as a student, and some of the lessons that I learnt, as a public man coming from Punjab, which had witnessed terrorism for long years. Sir, my first lesson that I learnt as a student in the study of terrorism was that the terrorist is outside the system of law. He is outside the system or establishment that he seeks to demolish through acts of terror, and, therefore, he owes no apology to any law. No law in the world can prevent terrorism. This legislation that has been brought before us, Sir, the two Bills, are punitive in nature, they are not preventive in nature. The sole purpose of these two Bills is to ensure that after the terrorist act is committed, a resolute nation with a devoted investigative and prosecutorial agency will bring to justice those who have perpetrated crimes against mankind. The second lesson, Sir, that I learnt as a public man from Punjab was that oppressive laws or stringent laws which are oppressively implemented can never eliminate terrorism. They only give rise to terrorism. Mr. Jaitley, in his comments stated that some amount of alienation of the local populace is inevitable, when you apply strong laws. I dispute that contention. The moment you start from the premise that you are permitted to alienate a populace or a section of people in your quest to apply stringent laws, howsoever unfairly, you lose the battle against terrorism.

6.00 P.M.

[THE VICE-CHAIRMAN, (PROF. P.J. KURIEN) in the Chair]

Terrorism has always been a function of perception that injustice has been caused or that justice is not being rendered. And, as long as that perception holds the field, as long as a significant number of people feel that terrorism is sought to be fought through State terrorism, we will only lose the battle against terror, and it is for this reason, Mr. Vice-Chairman, Sir, that our version of the Bill takes care of the Constitutional conscience of the country, it takes care of the sensivities of the Republic, as far as human rights are concerned, as far as our irrevocable commitment to protecting the dignity and rights of innocent citizens is concerned, that we have introduced in the Bills some provisions that will ensure that certain stringent provisions which are necessary in view of the fact that we are seeking to remedy an extraordinary mischief, that is a war against the nation, are not abused or indeed the abuse is minimised.

Sir, there is a third lesson that I learnt and that is a lesson I learnt as a lawyer that the fact that a particular provision of the law can be abused or misused can never be an argument to deny its utility or necessity. There is yet to be a law, civil or criminal, which has not been abused or misused sometime or the other. No amount of human ingenuity can anticipate all situations that the law seeks to address. It is a trite saying in law which we often use that life is larger than law. At the end of the day, no law can ever be a guarantee of total peace, of total fairness, of total justice. As somebody has said, 'aspiration of a perfect law is seeking a legal utopia, which is an impossibility'. Therefore, what is it that we must aim, Sir? And it is on that touchstone that I would commend this House to measure the utility or the constitutionality or the legality or the purposiveness of these two Bills. The law must be certain; it must not be ambiguous; it should not be retroactive and it should not shift the presumption of innocence from the accused.

These are the four pillars of criminal jurisprudence in this country which have been hallowed and sanctified over as many years as I can recall. On all these four basic grounds, both the Bills, in my respectful submission satisfy the test of reasonableness, of fairness, of constitutionality and of effectiveness. For any law to serve its purpose, it need not be oppressive, but it must be effective. That is why we say, give teeth to the law; that is why we say, bring in meaningful legislation in view of the end purposes that the law seeks to serve, or that we want the law to sub-serve.

What is the end purpose that we want our law to sub-serve? The end purpose is, terrorism, sponsored from across the border, acts of international terrorism that are creeping into our borders need to be fought, need to be checked and once they are committed, unfortunately — God forbid—if they are committed, the perpetrators of those acts have to be brought to justice; justice not by the lamp-post, justice according to law; because, rule of the law is what distinguishes a civilised nation, a civilised society, a civilised people from those we seek to fight.

Sir, it is very easy to fall into the prey, as was suggested by my friend on the other side, that a confessional statement to a police officer should be used. We all know how these statements are recorded; we all know that nine out of ten times, or at least eight out of ten times, it is the innocent people against whom these terrorists are used. So, let us not go in for or plead for a knee-jerk reaction. It is time for reflection, it is time for deliberation, it is time for resolve, it is time for sensitivity, and it is time for a united nation to speak in one voice. It is true that the people of this country are watching this on the television and will read tomorrow in the press. They will pass harsh judgment on us, Sir, if we fail to deliver now. If we fail to pass the muster at least on the issue of terror, this nation will not forgive us. The biggest glory of this country is that the representatives of the people, who adorn the chairs in this House, who are the pride of this nation, are expected to show unity—and I am sure, I am proud that so far they have shown a united determination in fighting terror. There could be a difference in perspective, there could be a difference in emphasis. It is only to be expected.

Some of the points made by my colleagues on the other side are well taken. I for one have always felt that it is better to read into the law certain safeguards than to invent them later on. But, having said that, Sir, as a lawyer I can tell you, it is also true that every Bill that we pass, every legislation that is put on the Statute Book, is nothing more than the skeleton of the law. This skeleton is eventually clothed and roped by adjudication by courts. And, the courts make sure that constitutional safeguards, principles of natural justice that ensures substantive justice, the procedural due process requirements, are in fact read into the law we make. There is, ultimately, a power of judicial review with the superior courts. Even this law can be struck down if it fails to pass the test of judicial scrutiny. So, I would hasten to add, Sir, that all legislative provisions that we have made, and I would refer to only two or three which are intended to make the law effective, are provisions of 43(a), which talk about power of arrest and detention in the Unlawful Activities Prevention Act, 43(d) that talk of stringent bail provisions, 43(e) that talk of presumption of guilt. I would like to make a point here, Sir. It is a cardinal rule of jurisprudence that a person is presumed to be innocent until proved to be guilty. I do not think that that has been reversed. All it says is that if a person is found with a weapon of destruction in his possession, the onus would shift temporarily, for that limited purpose, upon him to prove that that cannot lead to an inference of guilt against him. In criminal jurisprudence, the onus of proving the guilt of the accused is invariably, and always, on the prosecution. That principle has not been negatived in this Bill.

So, I would like to add that there is no reason for apprehension on that score. It is a case of like stolen goods, if stolen goods are found in somebody's possession, it is for him to prove or establish how these goods came into his or her possession in the first place. Therefore, Sir, this law does nothing more than that and does not, I repeat, does not tinker with the cardinal rule of

jurisprudence which is an elementary rule and rightly so placed since Macalay's time. Sir, the second point that was made was about bail provisions. Now, we had made the provisions stricter. We have said you will not get bail until the Public Prosecutor is put on notice because sometimes through misrepresentation or half-baked representation you can get the adjudicatory authority to release you on bail and when it comes to apprehending a terrorist, you have to have double caution, you cannot let a terrorist go on a legal nicety only to go and commit another terrorist strike. So, on all force I hasten to submit this law passes the test of constitutionality. Sir, I would like to make two more points and then I am done. Sir, as far as the integral and internal morality of this law is concerned, nobody has any doubt, not in this House, not in the Lok Sabha and not in the country. We all know that we require an action in response not only to Mumbai but an action in response to international terrorism, which has now been identified as one of seven gravest challenges for the civilised order in the 21st Century. It is for that reason that the UN Security Resolution mandated countries to support that international endeavour through domestic legislation. Sir, let me divert for one minute, till eighties, nineties, the debate in the United Nations always used to be divided between two points of view. One point of view said, might your terrorists may be my freedom fighters, I am not prepared to accept your measures and your yardsticks on him and the other side would say that an amount, or no end or no purpose can justify killing of terrorist people. Then the reply would come, for example, that in Israel, they are no innocent tourists, anyone who goes to Israel must suffer the fate, that used to be argument. Fortunately, for us today, Sir, after 9/11 that debate has changed. The idiom of discourse on terrorism has undergone a paradigm shift. It is now an accepted truth and accepted reality, and received truth that no end can justify terror. Therefore, Sir, today having being victims of terror across the border, from all kinds of places, we as a nation have resolved that we will not fail our country, that we will not regress in any lethargy, that there would be no laxity found, and this is just one of the responses because as I stated in my opening, terrorism, I agree, as Mr. Sitram Yechury said, cannot be fought by law alone because terrorist by definition is outside of the law, a Fidayeen or Jehadi has no apology to any of the law. He comes prepared to die for his cause because his cause renders him in *Jannat* and it is supreme for him. Therefore, this is only the first step in the direction we must travel and that is the long road ahead. We will not be able to travel that long road ahead if in the very least, in the very minimum, all shades of opinion do not agree in one fundamental truth that terror sees no religion, it sees no colour and it sees no country, it a law unto itself and that is why I say, Sir, in response to a charge that sometimes these laws are used against a particular community. I hasten to doubt that statement. I negate that statement. The law on terror sees neither religion nor colour nor nationality, it only sees the victim, and it only sees the culprit. It is the duty of the law to bring to justice the perpetrators of this crime; it is the duty of the law to safeguard the interests of the

innocent citizens. On all these points, Sir, this Bill passes muster. Sir, the National Investigative Agency Bill is equally important. It is important because we know that terrorism has transgressed and transcended boundaries. It is not confined to geographical boundaries. Within a federal country like ours, with unitary bias, with so many States and links of terror being located in more than one state, you need an over-arching central agency that can on demand seek the assistance of the State security apparatus, yet, have its own over-arching umbrella organisation which owes no apology to any help coming from somewhere or not coming from somewhere. Of course, I have reason to believe that if the central agency were to ask assistance from the State Government that shall be forthcoming. Every State Government, people of this country as a whole are nationalist people. They would never unfairly deny that assistance. Therefore, Mr. Yechury needn't be worried that this would be an onslaught on the rights of the State. As far as the use of the word 'may' is concerned, he said, that 'well, it only makes it discretionary upon the Central Agency to ask for assistance and is not mandatory.' Well, we have known 'may' to have been interpreted and read as 'shall' and vice versa. But, without getting into the legalities let me just say that whenever assistance will be required from the State Governments, I know it shall be forthcoming and suppose assistance was sought to check a terrorist crime and for some A, B, or C reason, hypothetically speaking, a State Government was unwilling to give that assistance, do we tell this House, do we tell India that we are impotent in that situation? No, that is the reason Sir, this investigative agency, this Bill that seeks to establish for the first time an agency of this kind, meant to be effective, meant to send out a signal is necessary, and, I think, is a great and a progressive moment forward. Sir, in conclusion let me just say this: Nations survive Governments and civilisations survive nations. We speak today not for one party, not for the Opposition, certainly not for the ruling party only, but we speak for our country. We speak for our civilisation, we speak for a way of life, a life that teaches us to respect every religion, to fight every kind of oppression, to protect the innocent and the weak and the only agency that man has created to protect the weak and innocent is the agency of the law and it is for that purpose that both these Bills very finely sub-serve. I thank you for all the attention that was given to me.

श्री शिवानन्द तिवारी (बिहार): माननीय उपसभाध्यक्ष महोदय, शुक्रिया। यह कम से कम मेरा सौभाग्य है कि इस बिल पर मुझे चार नामी वकीलों का भाषण सुनने का मौका मिला। श्री अरुण जेटली जी का वकालत के क्षेत्र में नाम है, श्री कपिल सिब्बल साहब का भी नाम है, डॉ. सिंघवी साहब का भी नाम है और अभी हम लोगों ने श्री अश्विनी कुमार जी का भाषण सुना, जिससे हम लोगों का काफी ज्ञानवर्द्धन हुआ।

यह जो बिल पेश किया गया है, उस पर अभी कपिल सिब्बल साहब बोल रहे थे कि इस पर किसी तरह की आलोचना नहीं होनी चाहिए। यह ठीक है कि इस बिल के साथ हमारा समर्थन है, लेकिन जहां हम कमजोरी देखते हैं अथवा जहां भी कमी देखते हैं, उसके बारे में इशारा करना तो हमारा दायित्व है। जहां आप फेल कर गए हैं, अगर उन कमजोरियों की ओर हम इशारा करते हैं, तो ऐसे में हम आपकी मदद ही करते हैं। जैसे हम आपसे यह जानना चाहेंगे कि यह जो बिल आज आया है, यह आज ही क्यों आया है? यह मुम्बई कांड

के बाद ही क्यों आया है, पहले क्यों नहीं आया? क्योंकि जब-जब मुल्क़ में आतंकवादी घटनाएँ हुई हैं, चाहे दिल्ली में हुई हो, जयपुर में हुई हो या हैदराबाद में हुई, सरकार की ओर से, गृह मंत्री जी की ओर से हमेशा यह बयान दिया गया कि हमारे यहां पर फैडरल जांच एजेंसी नहीं है। राज्य सरकारों पर आरोप मढ़ा गया कि राज्य सरकारें इसके लिए तैयार नहीं हो रही हैं, इसीलिए हम फैडरल जांच एजेंसी नहीं बना पा रहे हैं और फैडरल जांच एजेंसी नहीं बन रही है, इसकी वजह से ही यह सरकार ठीक ढंग से, मज़बूती के साथ आतंकवाद के खिलाफ लड़ाई नहीं लड़ रही है।

मैं आपसे यह कहना चाहता हूं कि आज आप जो नैशनल इन्वेस्टिगेशन एजेंसी का बिल लाए हैं, इसके लिए भी आपने राज्य सरकारों से सलाह नहीं ली है। हम कल हमारे बिहार के मुख्य मंत्री का इंटरव्यू एक टेलिविज़न चैनल पर सुन रहे थे, उन्होंने कहा कि इसके बारे में हम लोगों से पूछा नहीं गया है, हम लोगों को कॉन्फिडेंस में नहीं लिया गया है। संविधान के जिस प्रावधान के तहत डिफेंस ऑफ इंडिया के नाम पर आज आप यह जो नैशनल इन्वेस्टिगेशन एजेंसी का प्रस्ताव लेकर आए हैं, यह आप पहले क्यों नहीं लाए? उस समय भी इसकी जरूरत थी। यह तो आप पर एक दोष लगेगा कि आप इंतजार करते रहे कि मुम्बई जैसी घटना हो। उसके बाद जब पूरे देश में इस के खिलाफ गुस्सा पैदा हुआ तो उसके दबाव में आप यह बिल लेकर आए हैं। ठीक है, लेकर आए हैं तो देर आए दुरुस्त आए। हम इसका समर्थन करते हैं। लेकिन, एक बात मेरे दिमाग में आती है। मुम्बई की घटना हुई तो हमारे गृह मंत्री बदल गये, उनको हटा दिया गया। यह जो मंत्रिमंडल है, इसकी आयु कितने दिन की है? अधिक-से-अधिक प्रधान मंत्री या मुख्य मंत्री का विश्वास हासिल रहता है तो एक आदमी 5 वर्षों तक एक विभाग का मंत्री रहता है, लेकिन उस विभाग को चलाने वाले जो स्थायी लोग हैं, जो प्रोफेशनल लोग हैं- होम मिनिस्टर को आपने बदल दिया, लेकिन जो रॉ के प्रभार में हैं, जो आई0बी0 के प्रभार में हैं या जो इस तरह के दूसरे विभागों के प्रभार में हैं, उनके खिलाफ आपने क्या कार्रवाई की? क्या उनकी असफलता पर उनकी लेथार्जी को आप पुरस्कृत करना चाहते हैं, आप उसको संरक्षण देना चाहते हैं? इससे आपकी कमजोरी झलक रही है। जो पोलिटिकल बॉस है, जो डिपार्टमेंट का मिनिस्टर है, वह नीतियों के बारे में, सिद्धांतों के बारे में कोई निर्णय और फैसला लेता है, लेकिन उसके इम्प्लिमेंटेशन की जवाबदेही विभाग का जो तंत्र है, उस पर होती है। इस मामले में मुम्बई में 10 आतंकवादी आए। वे समुद्र के रास्ते आए। एक जहाज का अपहरण कर लिया। तीन दिनों तक लगा कि एक देश का दूसरे देश के साथ युद्ध हो रहा है। यह आपकी इंटेलिजेंस एजेंसी का फैल्योर नहीं है तो क्या है? अभी तक, आज के दिन तक, आपने किसी के भी खिलाफ कोई कार्रवाई नहीं की है। आप नेशनल सेक्योरिटी एडवाइजर बनाए हुए हैं। उस दिन शरद यादव जी बोल रहे थे कि यह नेशनल सेक्योरिटी एडवाइजर पद किस संविधान में है, आपने बनाया है, ऐसे निकम्मे आदमी को जिसके सामने पूरी दुनिया में यह देश बेइज्जत हुआ कि एक सौ करोड़ से ऊपर की आबादी वाला यह देश कैसा देश है कि 10 आदमी इस देश में नुकसान पहुँचाने के लिए चले आये। वे लम्बी तैयारी के बाद चले आए। यह जो 10 आतंकवादी हमारे देश में आए, इनको ट्रेंड करने के लिए, इनको तैयार करने के लिए एक लम्बा समय लगा होगा। क्या कर रहा था रॉ कि उसको कोई जानकारी नहीं मिली? वे लोग यहाँ चले आए। मुम्बई के समुद्री मछुआरों के संघ ने लिख कर सरकार को दिया कि स्मगलिंग हो रही है, हथियारों की स्मगलिंग हो रही है, बारूद की स्मगलिंग हो रही है और कान में तेल डाल कर आप सोए हुए हैं, तो आप किस काम के लिए हैं, किस मर्ज की दवा हैं? हम पोलिटिकल आदमी हैं। हम ही लोग निशाना बनते हैं। मुम्बई में जो घटना हुई, उस घटना के बाद टेलिवीज़न चैनल्स ने पोलिटिकल लोगों के खिलाफ एक अभियान चलाया। हम उसी अभियान का परिणाम यह मानते हैं कि हमारे पुराने गृह मंत्री हटाए गए। लेकिन, कोई यह पूछने वाला नही है। जो लोग हमें गाली दे रहे थे, पोलिटिकल सिस्टम को और पोलिटिकल लोगों को गाली दे रहे थे, उनके मुँह से एक बार भी यह नहीं निकला कि इसमें इंटेलिजेंस फेल्योर है और इस फेल्योर के लिए जो जवाबदेह है उसको भी दंडित

किया जाना चाहिए। वह तो उस विभाग का स्थायी पदाधिकारी है। वह प्रोफेशनल है। उसे इसी काम के लिए ट्रेनिंग मिली है और इसी काम के लिए खजाने से पैसा खर्च किया जाता है। उस पर कोई कार्रवाई नहीं करने से, उपसभाध्यक्ष महोदय, इसका बहुत ही गलत संदेश जाएगा, खराब संदेश जाएगा कि आप असफलता को संरक्षण दे रहे हैं। जो अपनी ड्यूटी में फेल कर गए, उनको आप संरक्षित कर रहे हैं, यह मैसेज जाएगा और यह आपकी कमजोरी का परिचायक होगा। इसलिए मेरा अनुरोध होगा कि तत्काल इन लोगों के खिलाफ कार्रवाई होनी चाहिए।

जब सीताराम येचुरी जी का भाषण हो रहा था, तो मैं उस भाषण को गौर से सुन रहा था। मेरा भी यह मानना है कि क्या इस कानून को बना देने से आप आतंकवाद पर काबू पा लीजिएगा? नहीं, यह मुमकिन नहीं है। किसी भी देश का समाज जब तक मजबूती के साथ देश के सामने जो चुनौती है उस पर एकजुट हो कर खड़ा नहीं होगा तब तक आप उसका मुकाबला नहीं कर सकते हैं। आज हमारे देश की क्या स्थिति है? मैं चिंतित हूँ कि हमारे देश का समाज आज जितना बिखरा हुआ है, जितना टूटा हुआ है, उतना शायद कभी नहीं था। शायद आजादी के समय जब देश का बँटवारा हो रहा था, उस समय हमारा समाज टूटा हुआ समाज था और उस टूटन के कारण देश का बँटवारा हुआ। आज लगभग वही स्थिति है। यहाँ पर जामिया में encounter हुआ...। बाटला हाउस में एनकाउंटर हुआ, हमारे बिहार के कुछ मुस्लिम संगठनों ने धरना दिया। उनका आरोप था कि एनकाउंटर के नाम पर हमारे समुदाय के नौजवानों की हत्या की गयी है। अब हम नहीं जानते हैं, हमको कोई जानकारी नहीं है, जो सरकार बताती है, जो मीडिया के द्वारा आता है उसी के जरिए हम जानते हैं, हो सकता है पुलिस एनकाउंटर सच हो। उसी तरह से अन्तुले साहब का जो बयान आया, उससे तो सरकार का उपहास ही उड़ा, सरकार का एक मंत्री इस तरह का बयान देता है, लेकिन मंत्री के साथ-साथ वह एक मुसलमान भी हैं। उन्होंने जो बयान दिया, मैंने यहां से निकलने के बाद तीन-चार माननीय सांसदों से, जो मुस्लिम समुदाय से आते हैं, उनसे पूछा कि यह जो अन्तुले साहब ने बयान दिया है क्या मुस्लिम समाज के अंदर भी यही फीलिंग है? उपसभाध्यक्ष महोदय, आपको आश्चर्य होगा कि उन सब लोगों ने, चाहे वे किसी दल के हों, सब लोगों ने कहा कि, हां यही फीलिंग है। हम यह नहीं कहने जा रहे हैं कि जो अन्तुले साहब कह रहे हैं वह सच है, हम यह मानकर चल रहे हैं कि जो सरकार कह रही है, वही सच है। लेकिन हम आपको यह बता रहे हैं कि यह जो अविश्वास है, यह जो भरोसा बिल्कुल टूट गया है, इस अविश्वास को लेकर आप आतंकवाद से मुकाबला कैसे कीजिएगा?

महोदय, हम जानना चाहते थे कि हमारे देश की बनावट क्या है? हमने 2001 की सेंसस रिपोर्ट देखी। इस देश की टोटल आबादी में हिंदू 82 करोड़ 80 लाख हैं। मुसलमान 13.4 परसेंट हैं, हिंदू 80.5 परसेंट हैं, मुसलमानों की आबादी 13 करोड़ 80 लाख है, ईसाई 2.3 परसेंट हैं और उनकी कुल आबादी 2 करोड़ 40 लाख है, सिख 1.9 परसेंट हैं और आबादी 1 करोड़ 90 लाख है। आप देख लीजिए 82 करोड़ 80 लाख इस देश में हिंदू बसते हैं और जो अकलियत है, जो मायनोरिटी है, जो अल्पसंख्यक है, उसकी आबादी 15- 16-17-18 करोड़ है। मेरा यह मानना है कि यह जो 18 करोड़ या 20 करोड़ आबादी की मायनोरिटी हमारे देश में है, उसके मन में इन 82 करोड़ लोगों के प्रति कोई आशंका पैदा होती है, कोई भय पैदा होता है तो यह 82 करोड़ लोगों की जवाबदेही है कि उसके मन से उस भय को निकालें।

उपसभाध्यक्ष महोदय, इधर काफी आतंकवाद की घटनाएं होने लगीं, उनमें मुस्लिम नौजवानों का नाम आने लगा और यह चर्चा होने लगी कि आतंकवाद में हमारे देश के नौजवान भी आतंकी बन रहे हैं, तो हमने जानने की कोशिश की कि आखिर यह हिंदू और मुसलमान के बीच जो अलगाव है, इस अलगाव के पीछे क्या कारण है? उपसभाध्यक्ष महोदय, एक अजीब चीज हमारी नजर में आयी कि मुस्लिम लीग जिसने पाकिस्तान की मांग का समर्थन किया, मुस्लिम लीग का बीसवां सम्मेलन कोलकाता में हो रहा था और महमूदाबाद के राजा उस समय मुस्लिम लीग के अध्यक्ष थे। उनका भाषण मैंने पढ़ा और मुझे लगता है कि सब को यह भाषण पढ़ना चाहिए। महोदय, मैं उस भाषण को कोट करना चाहता हूं, "मेरा विश्वास है कि कोई भी सच्चा हित, चाहे अल्पसंख्यक का हो या बहुसंख्यक का, ऐसा नहीं हो सकता है, जो देश हित से बाहर हो..."

उपसभाध्यक्ष (प्रो0 पी0जे0 कुरियन): सुनिए, आपकी पार्टी के 11 मिनट खत्म हो गए हैं। आप कंक्लूड कीजिए।

श्री शिवानन्द तिवारी: मैं 5 मिनट में कंक्लूड कर रहा हूं। "कोई भी सच्चा हित", चाहे अल्पसंख्यक का हो या बहुसंख्यक का, ऐसा नहीं हो सकता है, जो देश हित से बाहर हो। देश की कोई भी प्रगति जो किसी संप्रदाय के हितों की उपेक्षा करती है, प्रगति कहलाने लायक नहीं है। किसी भी संतुलित और समझदार भारतीय राजनीतिज्ञ के लिए ऐसे भारतीय प्रजातंत्र की अपेक्षा करना जिसमें संप्रदायवाद का पुट हो, असंभव है। किसी बहुसंख्यक समाज के लिए अल्पसंख्यकों को दबाकर रखना, क्योंकि उसके पास बहुसंख्या की ताकत है, समान नागरिकता का उल्लंघन है, जबकि समान नागरिकता ही प्रजातंत्र का मूल मंत्र है। अल्पसंख्यकों का भय व गलतफहमी अस्वाभाविक नहीं है और यह बहुसंख्यकों की जिम्मेदारी है कि वे भय और शक की उस भावना का उन्मूलन करें। यह जो मुस्लिम लीग का बीसवां सम्मेलन हुआ था, उस समय राजा मेहमूदाबाद उसके अध्यक्ष थे, यह उनका भाषण है। उनका यह भाषण पढ़ने के बाद हमको लगा कि जब मुस्लिम लीग के अध्यक्ष ने ऐसा भाषण दिया था, तो फिर देश का बटवारा कैसे हो गया? मुझे तो ऐसा लगता है कि अतीत का बोझ हम ढो रहे हैं। हमारे यहां समाज में कई तरह की गलतफहमियां हैं और वे गलतफहमियां महज इसलिए हैं कि हम अतीत का बोझ ढो रहे हैं। हमको ऐसा लगता है कि हमारे समाज में जो गलतफहमियां फैली हैं, उनको दूर करने के लिए जिस पोलिटिकल एक्शन की जरूरत है, ऐसा कोई पोलिटिकल एक्शन हमको दिखाई नहीं दे रहा है। उस तरफ से भी दिखाई नहीं दे रहा है। आप सत्ताधारी पार्टी के हैं, आपके हाथ में देश की बागडोर है, लेकिन यह जो फीयर है, यह जो गलतफहमी हैं, उनको दूर करने में आप सफल नहीं रहे हैं। मेजोरिटी के दिल में माइनोरिटीज के प्रति अगर कोई किसी तरह की गलतफहमी है, तो उसको दूर करने में आप सफल नहीं रहे हैं। आप इस बात को ध्यान दिए बगैर कुछ नहीं कर सकते।

उपसभाध्यक्ष (प्रो0 पी. जे. कुरियन): अब आप समाप्त करें।

श्री शिवानन्द तिवारी: सर, शकील साहब को स्टेट मिनिस्टर बना दिया, उनको पता नहीं कि उनको कोई सेंसटिव विभाग मिला या नहीं और आप समझते हैं कि आप माइनोरिटीज का कांफीडेन्स हासिल कर लेंगे, ऐसा होना वाला नहीं है।

उपसभाध्यक्ष (प्रो0 पी. जे. कुरियन): तिवारी साहब, समाप्त कीजिए।

श्री शिवानन्द तिवारी: इसी के साथ ये दोनों बिल जो यहां आए हैं, इनका मैं समर्थन करता हूँ। धन्यवाद।

DR. V. MAITREYAN: Sir, the UPA Government has placed before this august House two Bills today for consideration and debate. One is the Unlawful Activities Prevention (Amendment) Bill, 2008; and the other is the National Investigation Agency Bill, 2008. This has come after 23 incidents of terror attacks and 910 casualties. This is according to the Wikipedia. The numbers are likely to be more. Till 22 terror attacks happened, the UPA has been consistently maintaining that the existing laws are enough to tackle terrorism. Suddenly, after the 26th November attack, wisdom has dawned upon the Government to strengthen the laws. Now, it has taken a U-turn. यह क्या हुआ, कैसे हुआ, क्यों हुआ, कब हुआ? होम मिनिस्टर को पूछेंगे, तो वह बताएंगे, वह छोड़ो, यह न सोचो, यह न पूछो... Mr. Kapil Sibal said that we should send a message not only to the country, but also to the rest of the world that we are united in our fight against terrorism. 'Yes', we all want it. The country wants it. The country wanted it, the country wants it. We had been

wanting this for the last four-and-a-half years. But, Mr. Kapil Sibal, the hard reality is that you didn't fight against terrorism in the last four-and-a-half years at all. आप तो रणछोड़ दास थे। साढ़े चार साल में एक के बाद एक अटैक होते रहे और आप तमाशा देख रहे थे... Now, suddenly, wisdom has dawned on you. I am very sure, the real reason for the UPA Government to be pro-active in their approach towards terrorism is because of the public anger, outburst and outrage. Public is angry because of your inaction for the last four-and-a-half years. Public is outraged because of your inefficiency and ineptitude for the last four-and-a-half years. Now, you have suddenly realised that the public will not vote for you, and it will vote you out in the coming Lok Sabha elections if you continue to remain blind to the terror attack. It is this single factor that has forced the UPA Government to come out with these two Bills. Your initiative to bring these two Bills to tackle terrorism may be an electoral compulsion, but, as far as my party is concerned, my party General Secretary, and leader, Smt. Puratchi Thalaivi, is concerned, they have been very strong and consistent crusaders against terrorism. Ever since 1991, for the last two decades, she has been consistent in her approach towards terrorism, come what may. She has never, ever changed her stand or position with regard to her approach towards terrorism. It was she, who after coming to power in Tamil Nadu in 1991 got the terrorist organisation, LTTE, banned in the country. As long as she was in power, she had crushed terrorism ruthlessly, with an iron hand. In fact, I would like to draw the attention of the House to the speech delivered by Smt. Puratchi Thalaivi as the Chief Minister of Tamil Nadu during 'The Conference of Chief Ministers on Internal Security and Law and Order' held on 15.4.2005, after the UPA Government came to power. I quote, First and foremost, I would like to invite the attention of the hon. Prime Minister to the need for a firm and unambiguous stand against terrorism, extremism and all the forces that insidiously strive to tear us under our polity. The olive branch can be shown and kid glove treatment extended to extremists, Naxalites and even terrorists, only at our peril. They unfailingly use such opportunities to regroup and get the time, space and money to renew their violent struggle. It is always better to isolate the problem and eradicate it, instead of hoping against hope that there will be a change of heart. In the aftermath of September 11, 2001 terrorist violence, it would be foolhardy to lower our defence against the machinations of terrorists. We have to be one step ahead in our war against terrorism."

It is because of such firm conviction against terrorism shown by my leader Puratchi Thalaivi, that we support today any effort taken by any Government to strengthen the anti-terror laws. And we are here today to support the steps taken by this Government to strengthen the Unlawful Activities (Prevention) Act, 1967 by the proposed amendments.

Now I come to the second Bill, The National Investigation Agency Bill, 2008. As a concept, the AIADMK is for and it supports the creation of an investigation agency at the National level to investigate and prosecute offence affecting the sovereignty, security and integrity of the country. I again draw the attention of the House to Madam's speech at the Chief Ministers' Conference in 2005. I quote, "I would like to draw the attention to the question of unified intelligence to ensure

better results. Given that terrorism has multifarious dimensions like money laundering, syndicated crime and drug cartel networks, apart from the links between terrorist groups of different origins, as, for example, the LTTE with the ULFA, it is important that the State police, the Intelligence Bureau, the Customs and the Internal Revenue Departments, the Narcotics Control Bureau and the Coast Guard, apart from the agencies handling external intelligence like the RAW, are all brought together under an institutionalized mechanism with an IT-driven database and information sharing protocol. At the State level, it should be under the Chief Minister of the State, and, at the level of the Government of India, under the Union Home Minister or the Cabinet Committee on Security."

Thus, it is clear that while we are firm in our conviction to tackle terrorism, we are equally firm in protecting the rights of the States. Whenever the Federal structure enshrined in the Constitution of India is stramped upon, my leader and my party are the first to raise our voice against it. The possibility of the Centre misusing its powers as regards the NIA to target unfriendly State Governments cannot be ruled out. I repeat again, the possibility of the Centre misusing its powers as regards the NIA to target unfriendly State Governments cannot be ruled out, just as the CBI had been misused so often to settle political scores.

Thus, Chapter III, section 6, sub-sections 5 and 6 give overriding power to the Central Government, reducing the role of the State Governments to nothing. Sub section 5 which enables the Central Government to *suo motu* direct the agency to investigate should be deleted. Accordingly sub-section 6 by which the State Government and any Police Officer of the State Government, investigating the offence, is prevented from investigation and forced to transmit the relevant documents and records to the Agency should also be deleted.

A close coordination, co-operation and intelligence-sharing between the State law enforcing authorities and the Central investigating agencies is very much essential to effectively combat terrorism. The above clauses, sub-sections 5 and 6, are very much against the spirit of this cooperation and co-ordination as it exhibits a big brother or oneupmanship attitude of the Centre.

The war against terrorism is formidable. The Centre and the States should join together with conviction and determination to stamp out terrorism. Thank you, Sir.

DR. JANARDHAN WAGHMARE (Maharashtra): Sir, I stand here to support the Bill. The Mumbai incident has proved to be an eye opener. This incident in Mumbai has created a very extraordinary situation. People are in an angry mood. The whole nation is in an angry mood. They are even denouncing politicians and demanding that some action should be taken immediately. In such a situation, we need a very effective legislation, and I feel that this National Investigation Agency Bill would give us new hope. We shall be able to prevent terrorism which has caused loss of lives and property. Sir, laws should be effective and, at the same time, implemented very effectively. Laws, of course, are instruments in our hands; they are means. Much depends upon how you are going to use these instruments or means. Laws, of course,

cannot prevent things. Only after the Act, law comes into play. This is the National Investigation Agency; this is not the 'National Prevention Agency'. Our problem is, how to prevent terrorism. It is a very complex phenomenon. The seeds of terrorism are found in fundamentalism. The roots of terrorism are found in certain countries where training is provided to the terrorists, and its branches are spread all over the country. So, this is a very big and complex problem. India has suffered a lot. No other country in the world has suffered as much as we have suffered. The international political community also has realised the gravity of this situation; that is why, international opinion is in our favour. The tide is in our favour. We need to exploit this situation.

Now, this menace of terrorism has to be fought collectively at the national level as well as at the international level. Therefore, we have to be very vigilant. Our police force, our paramilitary forces, our Intelligence services, all these should be equipped properly with new technology and we must have a feeling of unity in the country. It is a very good thing that at this juncture we are united. United we stand, divided we fall. Eternal vigilance is the price of liberty. So, our people should realise this and should be united and vigilant.

Sir, in this country, there is a flood of infiltration. This could convert our country into a trojan horse. People are giving shelter to terrorists. They are being sheltered; they are being funded. We need to get to the root cause of all this and take very effective steps to destroy all these sources of terrorism in the country. Then alone we can be successful in this. Therefore, the whole nation should be united and resolve to fight it with full strength.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Rajeev Chandrasekhar*ji*, in the others category there are 14 speakers and the time is only one hour. So, try to be brief.

SHRI RAJEEV CHANDRASEKHAR (Karnataka): Sir, thank you for this opportunity to speak on this vital Bill this evening. This Bill marks what I hope is the first of the many steps required — llegal, administrative — to secure our nation and our people. I will speak only on the NIA and the Bill relating to the NIA.

Sir, as many hon. Members have already spoken in the House, 26/11 was an unprecedented attack on our nation. It reinforced the sometimes forgotten fact, that we have a war being waged against us as a people and as a nation. The difference, of course, was that this time the attack was unambiguously on our economic centres and the economic establishment.

Sir, after some years of neglect, the vital issue of fighting terror is now taking centre stage, albeit on the back of the tragic events of Mumbai. Sir, we must approach this whole challenge of terrorism with the assumption that there will be definitely further attempts to attack India and our people. The war on terror is not a short-term problem; it is a medium to long-term challenge requiring us to think of solutions for both the immediate and the long-term at the same time.

Sir, we are all agreed on the fact that is the most solemn obligation of the Government to protect its people and, therefore, priorities facing the Government today are stark and clear. They are, firstly, to prevent and pre-empt any future terrorist attacks; secondly, to upgrade and scale up our civil defence preparedness in anticipation of these future attacks, and thirdly, investigate and track down perpetrators of attacks and their supporters.

Sir, it is in the context of these priorities that we need to discuss this Bill to create a National Investigative Agency. I have some broad questions that I will address the Home Minister and I hope that he will provide answers.

Sir, keeping in mind and reiterating that the Government's immediate objective is to prevent and pre-empt further attacks, it is obvious that what is clearly required today is a coherent, cogent counter-terrorism strategy and an agency to implement that strategy. The overwhelming opinion in police and security circles is that NIA should have been the national counter terrorism agency and the skills, capabilities, personnel and tools required to fight this war on terror be assembled there.

However, from the reading of the Bill, the NIA is not the counter terrorism agency that the country requires. It is not obvious to me, where that resides in the Government and which agency is designated to lead this counter terrorism efforts. Is it the NIA? Or is it the same old multiplicity of agencies and institutions with no clear line of command and ownership? I would humbly and most respectfully urge the Government to establish a clear counter terrorism strategy and leadership. If this has to remain secret, so be it. But a confirmation from the Government that there is such an effort in place and there is such a leadership in place will go a long way in making the people of India confident about the efforts underway to fight this menace.

Sir, the Bill and the accompanying notes and the discussions in the public domain suggests that this National Investigative Agency is actually just replacing the much politicised crime investigative branches of the State police and, therefore, will be tasked with investigating offences that have already been committed.

One of the reasons for the weakening and crippling of the capabilities of the State police agencies is the excessive political interference in appointments, transfers and promotions to such an extent that the best talent in our police forces shun going to these Departments. So, there is a followup question that would be useful to get an answer from the Home Minister. What steps will the Government take to ensure that the NIA will not become another politicised law and order institution amongst the other institutions that we already have? This is not a passing concern, given that Governments, currently and in the past, have had a pathetic track record of building and nurturing new credible institutions of Governance and keeping them focused on real work instead of using them for political investigation and intelligence. We have also seen to our disgust and dismay, political leaders playing politics with the work and performance of many brave police officers including one such performance yesterday outside the Parliament.

Sir, Fareed Zakaria in his book, "Post American World" talks of the US, Britain, Israel shrugging off and bouncing back after terrorist attacks. That is mainly because they have managed to create professional and capable institutions in this area that respond swiftly and capably after such attacks. So, I would urge the Home Minister to look into the downstream issues of how to nurture and build the NIA into a fine, capable, professional agency and most importantly an agency that's resistant to politicisation of the kind that is crippled and eroded so many others in our country. This will also go a long way to gain the respect and trust of the people in what it does and how it does it.

In end, I am not an expert on the subject of terrorism, but post 26/11, everyone in India has become aware of its serious threat and the inadequacy of our intelligence and security organisations and leadership to counter terrorism. Even the Home Minister has admitted to lapses in the security operations. I, and a large number of other M.P.s, have urged for an independent inquiry into what went wrong, like the 9/11 commission in the U.S. I have since been advised that, that may demoralise the security agencies. That is clearly not our objective. But, I would reiterate that unless we know what went wrong, we will not know what to fix and unless we fix the mistakes, we could pay the cost again on some future date. I would urge upon the Home Minister to give the House an assurance that he has independently and comprehensively examined and established the systemic flaws that led to 26/11, especially in areas of joint action, intelligence follow-up, ownership and integrated functioning of agencies since these will be required to address the issues of how the NIA will be organised in future.

Sir, let me end by saying that securing the country has to be a truly national effort and I hope the current political consensus continues, as the other important steps to increase and strengthen the security of our country are planned and implemented.

श्री कलराज मिश्र: माननीय उपसभाध्यक्ष जी, आज राष्ट्रीय अन्वेषण अभिकरण विधेयक, 2008 और विधिविरुद्ध क्रियाकलाप (निवारण) संशोधन विधेयक, 2008 पर व्यापक रूप से चर्चा हो रही है। सबसे प्रसन्नता की बात है कि आतंकवाद के विरुद्ध संघर्ष करने के लिए पूरा देश एक है, संसद एक है, संसद में जितने दल हैं, सब एक हैं और एकजुट होकर ऐसे कानून बनाएं, जिन कानूनों के माध्यम से आतंकवाद को, जो भी यहां कानूनी हिसाब से उसका निस्तारण करने में सहयोग प्राप्त होगा, उसको हम करेंगे — इस एक बड़ी अच्छी मानसिकता से प्रेरित होकर यह विधेयक आया है। इसमें यह बात भी कही गई थी कि इसी सत्र में या किसी सत्र में जब भी बिल लाते हैं, तो मान्यवर, आप जानते हैं कि उसे स्टैंडिंग कमेटी को भेजा जाता है, लेकिन शासन ने, सरकार ने अपेक्षा की कि स्टैंडिंग कमेटी में भेजे बगैर, क्योंकि यह सत्र छोटा है, इस विधेयक को पास कर देना चाहिए, इसको कानूनी स्वरूप प्रदान कर देना चाहिए। सबने बड़े सद्भाव से इसको लिया और उस सद्भाव के आधार पर इस विधेयक पर आज चर्चा हो रही है। ठीक है कि विधेयक की चर्चा के दौरान विभिन्न प्रकार के विचार लोगों के आएंगे, विचारों में मत-भिन्नता भी होगी और शायद समीक्षा करते समय किंचित् आलोचना भी हो सकती है, लेकिन उसको बड़ी सकारात्मक दिशा में लेना चाहिए, क्योंकि सबकी मंशा एक है कि ऐसा कानून बनना चाहिए, जिसके प्रति सबकी सहमति हो और वह कानून प्रभावी तौर पर लागू हो, ताकि आतंकवादी घटनाओं को रोक सकने में हम सक्षम हो सकें। इसलिए यह जो राष्ट्रीय अन्वेषण अभिकरण विधेयक, 2008 यहां आया है, उसको जब तक कानूनी स्वरूप प्रदान नहीं किया जाएगा, तब तक उसका कोई महत्व नहीं होगा और इसलिए उसको कानूनी स्वरूप प्रदान करने के लिए, उसके

प्रभाव को और प्रबलतर बनाने के लिए यह विधिविरुद्ध क्रियाकलाप (निवारण) संशोधन विधेयक, 2008 लाया गया है। इसमें यह कहा गया है, जैसे उद्देश्यों और कारणों का कथन में इन्होंने साफ तौर पर कहा है—

उस रीति के बारे में, जिसमें आतंकवाद निवारण अधिनियम, 2002 के उपबंधों को लागू किया गया था, व्यक्त की गई चिंताओं और शिकायतों को, जिनके अंतर्गत उसके दुरुपयोग के उदाहरण भी हैं, ध्यान में रखते हुए, अधिनियम को 2004 में निरसित कर दिया गया था। उसी समय, इस बात को ध्यान में रखते हुए कि भारत आतंकवाद के विरुद्ध वैश्विक लड़ाई में अग्रणी रहा है, संयुक्त राष्ट्र सुरक्षा परिषद् संकल्प 1373, तारीख 28 सितम्बर, 2001 के निबंधनों के अनुसार आतंकवाद के विरुद्ध लड़ाई में कोई समझौता न करने की अपनी प्रतिबद्धता और संकल्प को ध्यान में रखते हुए विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 में आतंकवाद और आतंकवादी क्रियाकलापों से निपटने हेतु उपबंध करने के लिए संशोधन किया गया था। तब से राष्ट्रीय और अंतर्राष्ट्रीय स्तर पर महत्वपूर्ण प्रगतियां हुई हैं। भारत के विभिन्न भागों में और अन्यत्र सीमा पार से प्रायोजित आतंकवादी घटनाएं और क्रियाकलाप चिंता बढ़ाते रहे हैं अतः ऐसे क्रियाकलापों से, जिसके अंतर्गत आतंकवाद का वित्तपोषण करने से संबंधित साधन भी हैं, निपटने के लिए विधित ढांचे का और पुनर्विलोकन किया गया है। प्रशासनिक सुधार आयोग का भी इन्होंने रेफरेंस दिया है। प्रशासनिक सुधार आयोग ने अपनी रिपोर्ट आतंकवाद का सामना करना धर्मपरायणता द्वारा संरक्षण करना में इस संबंध में अनेक सिफारिशें भी की हैं। इस संबंध में विभिन्न अन्य स्रोतों से भी सुझाव प्राप्त हुए हैं... ये उद्देश्य के अंतर्गत है और इन्होंने यह मंशा जाहिर की है कि प्रभावी कानून बनना चाहिए। लेकिन जो 2001 का उल्लेख किया है कि संयुक्त राष्ट्र सुरक्षा परिषद् ने 28 सितंबर को 1373 संकल्प लिए और उसमें उन्होंने महसूस किया कि सारे देश को आज जो आतंकवाद का खतरा पैदा हुआ है, सामान्य आपराधिक कानून के माध्यम से उस खतरे से हम नहीं निपट सकते हैं इसलिए कोई स्पेशल कानून बनना चाहिए, एक ऐसा विशेष कानून बनना चाहिए जिससे हम आतंकवाद का डटकर विरोध कर सकें। इसके लिए 2001 में संयुक्त राष्ट्र सुरक्षा परिषद् ने इस संकल्प के माध्यम से यह निर्देशित किया। जब 2001 में निर्देशित किया तो उस समय की सरकार ने एक कानून बनाया, पोटा कानून बनाया और पोटा कानून बनाने के बाद यह अपेक्षा की थी कि यह प्रभावी कानून है और इस प्रभावी कानून के माध्यम से आतंकवाद को हम किंचित रोकने की दिशा में प्रयत्नशील होंगे। प्रारम्भ में कई वक्ताओं ने कहा, हमारे बहुत से विद्वान मित्रों ने अपने विचार व्यक्त किए और यह बात सही भी है कि आतंकवाद कानून से रुक जाता — ऐसा नहीं है क्योंकि जिस आतंकवाद का हम सामना कर रहे हैं वह आतंकवाद कहीं न कहीं से सुनियोजित तौर पर हमारे यहां प्रॉक्सी वार के रूप में काम कर रहा है। आतंकवाद लड़ाई का एक माध्यम है और उसे हम प्रॉक्सी वार के रूप में देखते हैं। सबने यह स्वीकार किया है, पूरे सदन ने यह स्वीकार किया है, सत्ता पक्ष से हमारे गृह मंत्री जी ने, प्रधानमंत्री जी ने, विदेश मंत्री जी ने, सबने इस बात को स्वीकार किया है कि पाकिस्तान किसी न किसी रूप में आतंकवाद के माध्यम से हमारे ऊपर हमला कर रहा है। जब हमला कर रहा है तो उसका स्वरूप कैसा था? पहले तो उसका स्वरूप ऐसा था कि बगैर प्रत्यक्ष रूप से उपस्थिति दिखाकर जब वह हमला करता तो विस्फोट के माध्यम से हमला करता था, अनेक प्रकार की योजनाएं बनाकर हमला करता था, तत्काल लोग पकड़ में नहीं आते थे। फिर उसको लगा कि हम और आगे बढ़कर कुछ कर सकते हैं, जहां हमें हमला करना है, उस स्थान पर इतनी कमियां दिखाई पड़ रही हैं कि उन कमियों का हम लाभ उठा सकते हैं। उसी का यह परिणाम हुआ कि 26 नवम्बर को समुद्री माध्यम से हमला किया गया, हमारी सारी गुप्तचर एजेंसियों को ठेंगा दिखाकर, कि तुम हमारा कुछ नहीं कर सकते। हमारी सारी समुद्री और तटीय सुरक्षा व्यवस्था विफल हो गयी, हमारा मुम्बई का सारा स्थानीय पुलिस प्रशासन — चाहे वह गुप्तचर विभाग रहा हो, चाहे पुलिस प्रशासन रहा हो - विफल हो गया। मैं यह इसलिए कह रहा हूं कि कई महीनों से उनकी योजना चल रही थी और वे सफल हो गए। जब सफल हो गए तो यह पूरे देश के लिए चुनौती थी। इसमें पार्टी और राजनीति का प्रश्न खड़ा नहीं होता है, इसमें किसी मजहब का प्रश्न नहीं खड़ा होता है। हमारे देश में सभी मजहबों के लोग रहते हैं, हमारे देश में सभी पार्टियां हैं, परस्पर विरोधी विचारों की पार्टियां हैं लेकिन इस

7.00 P.M.

मामले पर सबने यह महसूस किया कि यह हमारे लिए चुनौती है। जब सबने महसूस किया कि यह हमारे लिए चुनौती है तो सबने डटकर कहा कि इसके लिए कुछ न कुछ होना चाहिए। मैं यह कहूंगा कि इस परिस्थिति का आकलन करके लोगों को लगा, सत्तारूढ़ दल को लगा — हम विरोधी दल में हैं — विरोधी दल को लगा, सबको लगा। तब एक साथ जुटकर इसका मुकाबला करने के लिए हमें आगे बढ़ना चाहिए। उसने प्रेरित किया यह कानून बनाने के लिए, सही बात तो यह थी। पोटा आपने निरस्त कर दिया, चलिए, हम मान गए, आप सत्ता में आ गए, उसको निरस्त कर दिया। हम उसके बारे में नहीं कहेंगे कि वह बहुत अच्छा था या आपका बहुत खराब है, ऐसा हम इस पर कुछ कहने नहीं जा रहे हैं, नहीं तो सिब्बल साहब उठ करके अपना कुछ दिखाना शुरू कर देंगे। हम उस पर नहीं जा रहे हैं। लेकिन आपने उसको निरस्त कर दिया और उसको निरस्त कर देने के बाद आपका जो स्टेटमेंट आया, मैं उसको दिखाना नहीं चाहता हूं लेकिन मैंने पढ़ा है, इसलिए कह रहा हूं। प्रधान मंत्री जी का भी स्टेटमेंट आया, और भी कई लोगों के स्टेटमेंट आए कि जो अपराध के विरुद्ध विद्यमान कानून है, सामान्य कानून है, इसमें ही काफी ताकत है, जो आतंकवाद का मुकाबला कर सकती है। इसी के माध्यम से हम इसको रोक सकते हैं तथा इसमें पोटा जैसे कानून की जरूरत नहीं है। यह परिणाम इस तरह का इसने पैदा किया जिसने आम आतंकवादी के मनोबल को इसने बढ़ाया, चाहे प्रत्यक्ष रूप से हो, चाहे परोक्ष रूप से हो। इससे उनको प्रोत्साहन मिला। इसको ईमानदारी से स्वीकार करना चाहिए। यदि इसको ईमानदारी से स्वीकार नहीं करते हैं तो अपनी चेतना से, अपने चैतन्य से विश्वासघात करते हैं। मैं और कोई बात नहीं कहना चाहता हूं। लेकिन इतना कहना चाहता हूं कि इसको स्वीकार करना चाहिए कि इसके कारण ही आतंकवादियों को प्रोत्साहन मिला। उन्होंने यह भी देखा कि इससे पहले लोगों ने कुछ चीजें तय की थीं, ग्रुप ऑफ मिनिस्टर्स ने कुछ चीजें एप्रूव की थीं और प्रधान मंत्री जी से पूछा भी गया था कि क्या फेडरल एजेंसी बनेगी। मुझे पता है कि 2004 में प्रधान मंत्री जी ने कहा था कि हम बनाएंगे। लेकिन नहीं बनी। मेरे पास गृह मंत्रालय द्वारा दिया गया आंकड़ा है, इस बीच में इतने जबर्दस्त तरीके से पूरे देश के अंदर आतंकवाद का प्रकोप बढ़ता गया, स्थानीय आधार पर लोगों को साथ लेकर उन्होंने अपना कर्म करना शुरू कर दिया। आंकड़ों के अनुसार 625 जिलों में 258 जिले किसी न किसी रूप में आतंकवाद की चपेट में हैं। आंकड़ा सरकार का है। इसमें 16 राज्यों के 192 जिले माओवादियों के कब्जे में हैं। अभी हमारे सीताराम जी कह रहे थे कि लेफ्ट का नाम क्यों रखा है। ये माओवादी हैं, इसलिए मैं कह रहा हूं, 16 राज्यों के 192 जिले माओवादियों के कब्जे में हैं, 20 जिले पाकिस्तान से संचालित मजहबी जेहाद के कब्जे में हैं और उत्तर पूर्व के 50 जिले अल्गाववादियों, उग्रवादियों के उत्पात के शिकार हैं। मेरा यह कहना है कि जब इनको लगने लगा कि कहीं न कहीं से ढिलाई बरती जा रही है, कहीं ने कहीं से इस प्रकार की स्थिति का निर्माण होता जा रहा है, जिसके कारण हमारे ऊपर प्रभावी शिकंजा लगना चाहिए, वह नहीं लग पाएगा। और इसलिए सत्र विस्तरित होते रहे। उसी का नतीजा हुआ कि मुम्बई की घटना हुई। मैं यह नहीं गिनाना चाहता कि कितनी घटनाएं हुई हैं, क्योंकि मैंने पिछली बार इसका उल्लेख किया था। लेकिन मैं यह जरूर कहना चाहता हूं कि परोक्ष रूप से प्रोक्सी वार, प्रत्यक्ष रूप से सीधे हमला इस बात ने हमको प्रेरित किया यह कानून बनाने के लिए और इस कानून के माध्यम से यह कोई रुक जाएगा, यही मान कर चलें, मैं ऐसा नहीं समझता हूं। इसमें निश्चित रूप से हमें विचार करने की आवश्यता है कि जो भी हमारा कानून बन रहा है जिसमें बहुत से लोगों ने तथा येचुरी जी ने भी कई देशों का उदहारण दिया कि इतने लोग जेल में पड़े हुए हैं। कई लोगों ने कहा कि पोटा का दुरुपयोग हुआ। मैं कहना चाहूंगा, आदरणीय चिदम्बरम जी यहां बैठे हुए हैं, मैं उनका ध्यान आकर्षित करना चाहता हूं कि आप ही ने 1985 में टाडा पेश किया था और टाडा इसलिए लाया गया था कि उस समय पंजाब में आतंकवाद का प्रकोप था। उसको संदर्भित करते हुए टाडा कानून लाया गया था। टाडा कानून में पहली बार आतंकवाद को परिभाषित किया गया और आतंकवाद को परिभाषित करते हुए यह तय किया गया कि आतंकवाद के लिए

अगर कानून बनाना है तो आतंकवाद जैसा कानून बनना चाहिए। मैं इस शब्द का जानबूझकर प्रयोग कर रहा हूं, ताकि आतंकवादी यह समझें कि यह इतना प्रबल कानून है, जिस प्रबल कानून के शिकंजे से वह बच नहीं सकता है। इसलिए टाडा की जो कड़ाई की गई और आजकल लोग चर्चा करते हैं कि इतने लोग रहे और लोगों को इतना कष्ट दिया गया, तो वह तो आतंकवाद को ध्यान में रखकर, उसके अनुरूप कानून बना था। यह दुर्भाग्य है कि उसका दुरुपयोग हुआ है, नहीं तो वह प्रभावी होता। उसका दुरुपयोग, इसलिए वह भी गया, फिर बाद में पोटा कानून बना। वह पोटा कानून भी आतंकवाद को ध्यान में रखकर बना था, वह आतंकवादी दुश्मन को ध्यान में रखकर बना था। वह किसी individual अपराधी को ध्यान में रखकर नहीं बना था। यदि वह किसी individual अपराधी को ध्यान में रखकर बनता, तो मैं आप सब लोगों का समर्थन करता। जिन्होंने कहा कि इतने दिन क्यों रखा जा रहा है, इतने दिन का क्यों समय दिया जा रहा है, 180 दिन का समय क्यों दिया जा रहा है, तब शायद मैं यह कहता कि यह गलत किया जा रहा है। लेकिन आतंकवादी को ध्यान में रखकर कानून बनाया जा रहा है और ऐसे आतंकवादी को ध्यान में रखकर कानून बन रहा है, जो आतंकवादी हमारे ऊपर proxy war के रूप में हमला कर रहा है। एक दुश्मन देश का व्यक्ति हमारे ऊपर आकर हमला कर रहा है और हमला करके हमें destabilise करना चाहता है। इसके लिए जितना कड़े से कड़ा दंड हो सकता है, उतना कड़े से कड़ा दंड देना हमारा कर्त्तव्य भी बनता है, और देश के हित के लिए बनता है, इसीलिए तो पोटा कानून बना था। पोटा कानून को यह कहकर इसलिए निरस्त किया गया कि यह तो बड़ा क्रूर कानून है। अरे! आतंकवादियों के साथ क्रूरता नहीं दिखाएंगे, तो और क्या दिखाएंगे। हमें उनके साथ क्रूरता दिखानी पड़ेगी। ...**(व्यवधान)**... महोदय, हमारा पूरा समय है। हमें याद है कि हमारा समय है और हमारा और कोई सदस्य बोलने वाला नहीं है। ....**(व्यवधान)**... अच्छा बोलने वाला है। ...(व्यवधान)..

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): अहलुवालिया जी का नाम भी है। Other speaker is there.

श्री कलराज मिश्र: मान्यवर, मुझे यह जानकारी नहीं थी। मैं यह कहना चाहता था कि हम अगर यह ध्यान में रखकर चर्चा करेंगे, तो शायद मत भिन्नता बहुत कम होगी। अगर हम यह ध्यान में रखकर चर्चा करेंगे कि आतंकवादी, आतंकवादी है, उस आतंकवादी के लिए कानून बन रहा है। यदि आतंकवादी के लिए कानून बन रहा है, तो हमें उसी के अनुसार व्यवहार करना चाहिए। इसमें भी जो 90 दिन और फिर 180 दिन का किया गया है कि उसको हिरासत में रखा जा सकता है, तो मैं समझता हूं कि इसको करना चाहिए और इसमें कोई हर्ज नहीं है। इस पर किसी प्रकार की रियायत करने की जरूरत नहीं है। आपने जमानत के बारे में leniency बरती है, लेकिन पोटा में leniency नहीं थी। जब तक उसका अपराध खत्म नहीं होता है, जब तक अधिकारी नहीं कह देता है, तब तक जमानत नहीं दी जाएगी, यह बात कही गई है। इसलिए उसको इस तरीके से लेने की जरूरत है और इसको उस ढंग से करने का प्रयत्न किया गया। मान्यवर, मैं यह कहना चाहूंगा कि कानून उसी हिसाब से बनना चाहिए। जो फैडरल एजेंसी की बात कही है, यह राष्ट्रीय अन्वेषण अभिकरण की बात कही जा रही है, यह मैं इसलिए कहना चाहता हूं कि पहले ही तय हो गया था कि फैडरल एजेंसी बननी चाहिए, लेकिन यह लेट बनी है। सभी गुप्तचर विभाग अपने-अपने तरीके से काम कर रहे हैं। उसके लिए यह बात भी आई थी कि Group of Ministers ने जो पहले तय किया था कि एक मल्टी एजेंसी सैट-अप की जाए, उसकी सिफारिश करने की बात की थी। खुफिया ब्यूरो के तहत एजेंसियां बनाई गई थीं। पहली मल्टी एजेंसी joint task force intelligence गई थी, लेकिन इसको स्टाफ न देने के कारण, यह कार्यान्वित नहीं हो पाई। इसका यह परिणाम हुआ कि हमें यह सारी दुर्दशा देखनी पड़ी, यह नहीं किया गया था। जब तक इसमें सामंजस्य स्थापित करते हुए काम नहीं किया जाएगा, तब तक नहीं होगा। कानून के तहत जो लोग गिरफ्तार होंगे, उसका त्वरित रूप से निस्तारण हो सके, इसके लिए जो अभी राष्ट्रीय अन्वेषण अभिकरण बनाया गया है और जिसमें संविधान की पहली सूची का हवाला देकर यह बात आ रही है कि राज्यों से पूछा नहीं गया है, यह बात सही है कि देश की एकता और अखंडता को ध्यान में रखते हुए केन्द्र सरकार अपने हिसाब से काम कर सकती है और सामान्य

तौर पर पहली सूची के अंतर्गत राज्यों को अपनी कानून व्यवस्था को स्थापित करने के लिए पूरी स्वायत्तता है। लेकिन जब राष्ट्रीय एकता और अखंडता को खतरा पैदा होता है, केन्द्रीय सरकार, सैन्ट्रल गवर्नमेंट उसके अनुरूप निर्णय ले सकती है। लेकिन व्यवहारिकता का तकाजा था सभी राज्यों से अगर एक बार वार्ता हो गई होती, तो ज्यादा अच्छा होता। उसके अनुसार ...**(व्यवधान)**... मान्यवर, एक मिनट, उसके अनुसार सारी चीजें हो सकती थीं। अभी यह बात कही जा रही है, लेकिन मैं गृह मंत्री जी से इतना जरूर चाहूंगा कि सेंट्रल की जो एजेंसीज़ हैं, रॉ है, आई.बी. है, डी.आई.ए. है, ये सभी एजेंसीज़ स्वतंत्र रूप से काम कर रही हैं। आई.बी. के चीफ मि. गिरीश सक्सेना की एक रिपोर्ट थी, उस रिपोर्ट के अंतर्गत उन्होंने कहा था कि हमने अपनी जो सिफारिशें दी थी, उनके विचाराधीन लागू नहीं किया गया। उन्होंने सिफारिश में कहा था कि हमें आई.बी. में कम से कम तीस हजार फील्ड में ड्यूटी करने वाले आदमी चाहिए, कांस्टेबल चाहिए, लेकिन पूरा स्टाफ ट्वेन्टी फाइव थाउजेंड का है। केवल तीन हजार पांच सौ लोग फील्ड में काम करने वाले हैं। मैं चाहूंगा कि इसे और बढ़ाने की आवश्यकता है। इसी तरीके से उन्हें और सुसज्जित करने की जरूरत है। आधुनिकतम हथियारों और बाकी सारी चीजों से उन्हें व्यवस्थित करने की आवश्यकता है। पुलिस को रिफॉर्म करने की जरूरत है। अगर इसे ढंग से करेंगे तो निश्चित रूप से हम जितना कार्‌य करना चाहते हैं, उतना कर सकेंगे। सब करने के बाद एक प्रश्न जरूर खड़ा होता है कि कानून बनते हैं, लेकिन कानून का समुचित तौर पर क्रियान्वयन नहीं होता, इम्प्लिमेंटेशन नहीं होता है। उसे कैसे इम्पिलमेंट कराया जाए, यदि इस पर ज्यादा ध्यान देंगे तो ज्यादा अच्छा होगा। कपिल सिब्बल जी ने कई प्रकार की बातें कहीं, वे केवल उत्तर प्रत्युत्तर में रह गए थे, मैं उनसे और आपके माध्यम से गृह मंत्री से आग्रह करूंगा कि मिसयूज तो चीजों का होता है, इसका भी मिसयूज होगा, इसका मिसयूज न होने पाए, इसकी चिंता करें। चीज़ोंो को क्रियान्वित करने का प्रभावी तौर पर कार्य करेंगे तो मेरा पूरा विश्वास है कि जिस मंशा के आधार पर यह कानून बनाया जा रहा है, वह कानून सफ़लीभूत होगा और आगे चलकर इस कानून का प्रयोग करके आए हुए आतंकवादियों को जो पकड़ा जाएगा, हम उनके विरुद्ध कार्यवाही कर सकेंगे। बहुत-बहुत धन्यवाद।

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Thank you very much. Now, there are 14 speakers more. I am requesting every Member to be very, very brief.

SHRIMATI KANIMOZHI (Tamil Nadu): Sir, I rise here, on behalf of the DMK Party, to support both the Bills, and because the pros and cons and the ifs and buts of these Bills have exhaustively been discussed in this House, I will make my speech very, very brief.

Sir, this Bill has been termed as 'toothless' by one section and 'clawed' by another. A lot of us are worried about the human rights and the human rights violation because most of the terror laws have the danger of falling into this kind of trap. When the extreme stands were taken by both sides, we know, as the Home Minister said, that a balance has been achieved, and I congratulate him on doing that.

Sir, the DMK Party has always opposed the POTA, and we have been a strong supporter of repealing the POTA. And, here, we would like to warn that the anti-terror laws can be misused. If we take the example of TADA, which has been repealed, it was repealed mainly because in many of the cases, it was being misused and a lot of innocent people have been arrested or detained. Under POTA also, people have faced the similar plight. It has been used against the *dalits*, against certain particular communities and religious communities, deprived sections and political parties. I am very particular in mentioning this over here because I come from a State where POTA was being used against the journalists. And it was also used against the political leaders.

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): You don't listen to that....*(Interruptions)*... You address the Chair. ...*(Interruptions)*... Don't listen to that. ...*(Interruptions)*...

SHRIMATI KANIMOZHI: It was used against political leaders. ...*(Interruptions)*...

DR. V. MAITREYAN: When political leaders commit mistakes, it has been used. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): No, please. ...*(Interruptions)*... No interruptions, please. ...*(Interruptions)*... That is her opinion. ...*(Interruptions)*... No, please. ...*(Interruptions)*...

SHRIMATI KANIMOZHI: It was used against political leaders. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): You speak. ...*(Interruptions)*... That is her opinion. ...*(Interruptions)*... Please, proceed.

SHRIMATI KANIMOZHI: Today, they are saying that they have always supported the anti-terror laws and they have been against terrorism. Once a person of a political party has been arrested under that Act by their leader or party, and today they have gone for alliance with it. So, it is actually a case of running with the hare and hunting with the hound. Some people have mastered that art. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): She is not saying who it is. ...*(Interruptions)*... Why do you worry? ...*(Interruptions)*... No, please. ...*(Interruptions)*...

DR. V. MAITREYAN: They are worried about the coming election. ...*(Interruptions)*... They are worried about the coming election. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Maitreyanji, please. *(Interruptions)*... No, please. *(Interruptions)*... You please continue.

SHRIMATI KANIMOZHI: We need not be worried. *(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): It is your time. *(Interruptions)*... Please. *(Interruptions)*...

SHRIMATI KANIMOZHI: If the power goes into the hands of people like them, it will be misused. That is the biggest apprehension that we have. I am just trying to caution because of that. The DMK likes to caution about the extended detention without bail for 180 days. If a law like this goes into the hands of wrong people, it can be used against many innocent people as has already happened. Since we have full faith in the UPA Government and the Home Minister has promised that we can revisit this law and make amendments, we support this Bill.

The next thing which I would like to mention is the National Investigation Agency. The DMK has always been a supporter of the federal, autonomy and more powers to the States. Yet, we support this Bill also. Keeping in mind that India has become a major target of terrorists and we

also understand that there is a great concern over national security, we support this Bill. But I would like to bring to the notice of this House and the Minister that, for the first time, in our federal set-up, where law and order has always been a State subject, a National Investigation Agency is going to be set up. It should not become a first step where the State's powers are taken away. It should not become so because, for the first time, we are opening the doors for interference by the Central Government and towards taking away the powers of the State. Of course, there is a list of scheduled offences which have been given here. The unlawful activities are one of the offences in the list. I would like to bring to the notice of the Minister that it is a very large area and it leaves a lot of grey area too. We have to be more specific, what these unlawful activities will be. He has to explain and make it clear that it would stop with terrorist activities and it would not go into other kinds of unlawful activities. Clause 9 says, "The State Government shall extend all assistance and cooperation to the agency for investigation of scheduled offences". This clause will also have to be clarified because we should know very clearly where the rights of the Central Government would end. It should be very clearly stated where it would stop. It is very important because it has already been stated here that an offensive or a hostile Central Government can make an opportunity out of this. It should not make an opportunity out of this and impinge upon the rights of the State.

I would also like to know from where the manpower for NIA is going to come. How is it going to be organised? It can't be started without manpower. Of course, we need the manpower and we need help from State agencies. But it is important that it comes from the Centre. The manpower should come from the Centre and it should be very clearly stated how it will be done. **(Time-bell rings)**. Thank you.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Thank you very much. As soon I rang the bell, you have stopped. You are very disciplined. Thank you. Shri D. Raja.

SHRI D. RAJA (Tamil Nadu): Mr. Vice-Chairman, Sir, at the outset, I would like to inform the House that I have given an amendment to the Unlawful Activities Prevention (Amendment) Bill, 2008 and also some amendments to the National Investigation Agency Bill, 2008.

Fight against terrorism, is, in other words, fight for defence of internal security and sovereignty of the country. We will have to fight terrorism at all levels, not only at the legal level; both external and internal. Thanks to Dr. Ambedkar, we have a Constitution which is a republican one. Our country is a democratic republic. The Constitution guarantees fundamental rights, democratic rights, human rights and all civil liberties to our citizens. We are a Parliamentary democracy. We are not a two-party system. In a multi-party democracy, we should try to build a broader consensus, when laws of this nature are made. Normally, these Bills should have been referred to the Standing Committee.

Having said this, I would like to make certain observations with regard to terrorism itself. In the Statement of Objects and Reasons, which was circulated on 15th December, 2008, there is a clear mention of Left-wing extremism, which my colleague Comrade Sitaram Yechury also referred to. The National Security Guards Act, 1986 says, "Terrorist means any person who, with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people, does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances, whether biological or otherwise, of a hazardous nature, in such a manner as to cause, or as is likely to cause, death of, or injuries to, any person or persons or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community".

Here it clearly refers to only one type of extremism, that is Leftwing extremism. I do not know what is the definition of Left-wing extremism. Even today the Naxalites do not call themselves Naxalites. They call themselves Maoists. In such a situation, I would like to know from the Home Minister what about the right-wing extremism that is spreading hatred and violence in the society and creating hatred between one community and the other. How are you going to deal with right-wing extremism? In this context, I must say that this law is likely to be misused. I do not want to go into the details. All the details have been shared in this House about how POTA was misused; how TADA was misused. But I must say that the misuse was to such an extent that even people were arrested for the possession of Communist manifesto written by Marx and Angel, in some States. And this is obnoxious. Even today such things are happening. Simply you throw some Maoists' literature into the room of a person; you arrest him and put him under such draconian laws. Such abuse and misuse of laws is taking place. There, I think, the Home Minister will have to see how the Unlawful Activities (Prevention) Act is going to work in the coming days. On this, many issues were raised. Due to constraint of time, I do not want to go into the details. At the same time, I have given an amendment in this regard whereby the provision, of giving the onus on the person to prove himself/herself as innocent, can be dealt with. Otherwise, with this kind of a provision, this law will be draconian and repressive, and it can lead to violations of human rights and democratic rights of the common people. This can be applied to any person or any section of people. I think the Home Minister needs to explain to this House how he is going to deal with it. In the same way, the bail period can be extended from 15 days to 30 days to 60 days, 90 days and then 180 days. How far this can work in the given situation needs to be explained. That is why I say that this particular Bill, the Unlawful Activities (Prevention) Amendment Bill, 2008, needs to be properly scrutinised. We would also like the

Home Minister to consider the amendments given by us. Otherwise, this law can be misused and abused in the coming days. I would like to warn the Government of such a problem in the future.

Coming to the National Investigation Agency, in this Bill also, we have placed certain amendments for the consideration of the hon. Minister. India is a federal country. Even though we have the Union Government, we have a federal structure in place. So, the National Investigation Agency, that we are setting up, should not, in any way, undermine the federal structure of our polity and it should not encroach upon the rights of State Governments. In an effort like this, it is always necessary that State Governments need to be associated. You cannot keep the State Governments outside the decision making process. There again, we have given one amendment to the Schedule. We have suggested that six schedules can be in Schedule 'A' and two schedules can be in Schedule 'B'.

Sir, since our country is a diverse country, and we are having multiparty democracy, we can have Governments belonging to the same party in some States and, at the Centre, it can be a different Government. But there should be all cautions taken to ensure that we do not encroach upon the powers of the States and we do not undermine the federal character of our polity and governance. I do not know how the Home Minister is planning to constitute the National Investigation Agency. What will be its composition? These details need to be explained. Also, the bureaucrats, or, to say, the bureaucracy, should be made accountable. From the past experiences, one can say that the bureaucrats are let out scot-free. It is the politicians who are punished. Of course, the politicians have to be made accountable for their action/inaction. At the same time, in case of failures, the bureaucrats, who are in-charge, also must be made accountable. The Home Minister needs to explain this as well. At the end, I would like to say that there cannot be two opinions about our fight against terrorism. At the same time, it should not become a partisan affair. The effort should not be a partisan one. It should be a united one, a collective one. The whole country should stand united, and the Parliament should stand united, for which the Home Minister will have to concede the views given by other parties, and the amendments given by us also. Thank you very much, Sir.

SHRI RAHUL BAJAJ (Maharashtra): Sir, as usual, I stand as an Independent, but, today, to support both the Bills. Sir, I stand with a lot of trepidation and nervousness, having seen what happened here today during the day, big leaders shouting at each other, Sir. They have big parties supporting them. I only have the poor citizens of India supporting me, Sir. So, I am very nervous today because I am going to get brickbats from both the sides. ...*(Interruptions)*... Sir, I don't need to make it very clear that we are all proud Indians, and what we are saying should not be taken as anything against our great country. But, what has been happening for the last year or two gives the world, and many in India, an impression that we have become a soft State. The people the world over, Sir, fortunately or unfortunately, as it may be, only respect strength.

You have to be militarily strong; you have to be economically strong; you have to be a stable country; you have to be a united country. Nobody in the world respects the weak. Keeping that in mind, Sir, we have to see that there are two sides of the terror coin. One is, what is happening within our country; and the other is, in our neighbouring country. At the moment, we speak especially of one specific country. Unless to some extent, in some way, we take care of conditions and developments in our neighbouring country as well as ourselves because we are surrounded, all over the place, between us and the West, by lots of countries, we cannot succeed. We have to take care of both of them. I believe, Sir, the citizens of this country, maybe, I am talking of the Mumbai types, maybe, I am talking of the urban-types, maybe, I am talking of the elite types, maybe, those with suits and lipsticks, I don't know, Sir, but they seem to have lost confidence in our ability to govern. We are very conscious that every Government since 1947 has been our Government. We voted for it. So, we are not complaining against this Government or that Government. But, yes, there is a feeling, we have heard, against politicians, whatever that means. But, that does not mean that we can do without politicians. It means we need good governance, Sir. When we don't see much of a difference between right and wrong, Sir, then, we land in a situation in which we are today. For so many years, we have been dividing our society, I have said this before, Sir, by religion, by caste, religion or whatever reason. I don't want to say it is vote bank politics, whatever it is. As a democracy, we want to get re-elected, but there must be a *Lakshman Rekha* which we do not cross. Our police force has been emasculated by the entry of criminals in politics. I am not saying about everybody, but there are a few criminals in politics. If we need to declare a war, Sir, no sensible man should say we should declare a war. But, yes; we need a war against corruption, moral corruption and financial corruption. Faced with today's absurd, perpetual threat to life, the civil society in India, at least, what I see, is reacting. It has started moving. The efforts amongst the minority community, I am very happy to say, Sir, also to take a clear stand on terror, is moving in the right direction. The result, according to me — Sir, I am not a politician, as knowledgeable as people here — the recent elections in five States, also show, people, by and large, want to reward performance and are not gullible enough to listen to electoral rhetoric. Sir, I have a few suggestions for the Home Minister. We have a lot of complaints about incompetence of people who are supposed to do different jobs, supposed to guard us. But, as has been said earlier, who has been punished. There is no question of taking names of anybody. But, our intelligence agency, whether it is the IB or whether it is RAW, we have the new Agency coming up, and somebody said, my colleague, Rajeev Chandrasekhar said that we have to ensure that it is not just as other agency, similar people who are going to man it. So, ultimately, as I said a few days ago during the course of the discussion in this House, we need accountability, we need some reward and punishment

based on performance, not because I like your face. I don't see how it is coming, but without that — you can have all the equipment — you can have everything — Sir, it is going to be difficult to solve our problem. Sir, it is a minor point, maybe; if the citizens cannot be secure, we have heard the complaints, then why are our leaders to be so secure? I am not saying no political leader or bureaucrat should have security, but how much security? How much money is being spent? We keep hearing in the media that that should all be reduced. Some need it and they should get it based on the threat perception and the rest should not. So, NSG has to be strengthened, R and AW has to be strengthened, IB has to be strengthened. We should also tie up with the U.S.A., U.K., even Israel. Whoever can help us become more efficient and strengthen our intelligence agencies and our entire administration, their help should be taken. **(Time-bell rings)**

Ultimately, I would only close by saying, Sir, because you never gave me time; whenever I speak, you are sitting! ***...(Interruptions)...*** You ring the bell. ***...(Interruptions)...***

SHRI AMAR SINGH: Sir, I have a point of order. ***...(Interruptions)...***

SHRI RAHUL BAJAJ: Mr. Amar Singh always takes my time, Sir. ***...(Interruptions)...*** Sir, there is no personal conflict of interests.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): What is the point of order? ***...(Interruptions)...***

SHRI AMAR SINGH: The point of order is, he does not have any party; he has got NCP, BJP and Shiv Sena; 3 parties unlike us, Sir! We are supported by only one party! He is supported by three parties. ***...(Interruptions)...***

SHRI S.S. AHLUWALIA: हमारा बजाज! ***...(Interruptions)...***

SHRI RAHUL BAJAJ: इस को कहते हैं हमारा बजाज! Sir, misfortune of Amar Singhji's party, which I respect, is they did not have enough votes in my State. They would also have ensured by voting for me. He is supporting my nephew very strongly, which I appreciate very much.

Sir, accountability, performance and performance should be there. Reward should go to those who perform and punish those who do not. Thank you, Sir.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): You wanted seven minutes and you took less than that. Thank you.

SHRI S.S. AHLUWALIA: Sir, I am here to speak on the National Investigation Agency Bill, 2008, and the Unlawful Activities Prevention (Amendment) Bill, 2008. Sir, I am on a very limited point. I do not want to give a big speech, nor would I want to blame anybody. If at all I have to blame, I should blame the terrorists and the people who are supporting the terrorists. Sir, we have lost our Prime Minister in 1984, we have lost a former Prime Minister, Shri Rajiv Gandhi, in 1991. We have lost the Punjab Chief Minister. I have seen the different faces of terrorism. Sir,

while democracy is as necessary for the creation of a civil society, as breath is to human life, it is equally important for us to realise that there is one single phenomenon; and, one single enemy of the society is the new phenomenon, terrorism. We have seen, Sir, that the Jammu and Kashmir Assembly was attacked, then Parliament was attacked, the Red Fort was attacked, and then serial bomb blasts happened in trains in Mumbai, in 2006. We have seen in Ahmedabad, we have seen Surat, we have seen Jaipur, Hyderabad, Guwahati, everywhere. It is also clear that they have an agenda. And I have chalked out, and they have four things. When we treat these people, when we are discussing to bring in this law, scrapping that law, we are talking big, big things. But we are not discussing one thing. The first and the foremost is that these acts showed that no nation and no people are proof against terrorism today. We have seen the Twin Towers; we have seen Melbourne; we have seen Spain; we have seen London and then we have seen India. The terrorists of today are not simple-minded anarchists. They are clever and calculating. They are organised, they are well-funded and trained in the use of modern technology for their acts of destruction. They are not mindless, they are well functioning but with evil minds. Secondly, terrorism today knows no boundaries. If somebody thinks that it is Gujarat, forget about it, it will not come to his State, he is living in a fools' paradise. Terrorism today knows no boundaries; terrorists have their networks throughout the world and will strike the target of their choice anywhere any time. Thirdly, it is clear that terrorism hate the fact that it is democracy that has led to the economic prosperity of the nation and it is democracy that makes the success of the secular and pluralistic society such as India. The more democracy succeeds the more desperate and more vicious are the terrorists. Fourthly, these terrorist acts underline that there are nations that are deeply involved in financing terror. They are sponsoring them and providing safe havens for them. Finally and the most dangerously terrorists whether individual or state find a fertile ground for recruiting people for their evil designs through a perverted use of religion and in its fundamentalist form. I have seen how Punjab was intense to terrorism, I have seen when I was a student in Calcutta University how Bengal was intense to Naxalism, one side Gopibalabhpur and on the other side Naxalbadi and this is how it takes strength. You have to deal with it properly but I am not fighting on these small things but I am saying, Sir, today you have brought two Bills. My first speaker Arun Sahib, he is a barrister, he has spoken, then another Mr. Kapil Sibal, he is also a barrister, he has also spoken on that, and then Mr. Singhvi and then Mr. Ashwani Kumar, everybody, all barristers and you yourself, Sir, you are also a barrister. So, all are legal luminaries, I am not. I know only one thing that whether it is the National Investigative Agency, NIA or Unlawful Activities Prevention (Amendment) Bill, the people of this country want some law, some unity, somebody should come forward to protect their interests, to protect their children, restore the sense of security because they have lost trust in politicians, in governance, everywhere. That is why everywhere they are cursing us. Now it is

high time to come out with a strong legislation and what I narrated you in five points is that you are not dealing with an armed force, you are dealing with a committed terrorists and they are not anarchists, they are not criminals, they have a specific target, aims and objects. We will only prepare that we will kill them; we will arrest them; we will prevent them; we will detain them but they will kill you; they will decide the date, they will decide the place and they will decide the time and this is going to happen. How to stop it? Sir, when I was looking at NIA — I do not want to go into the nitty-gritty — I know personally that you were the architect of TADA, you were the architect of the SPG, you were the architect of NSG in this country. Now, I have little faith that you will bring some stringent law to control this but while drafting this you must see the Section 2 of NIA, 1(f) says, "Schedule means Schedule to this Act" and then Chapter III is dealing with all Schedule Offences and those Schedules are mentioned in the last page. In last page, I am talking about 8(b). It is 489 (a) to 489 (e), both inclusive of the Indian Penal Code. I will just read out the Indian Penal Code for the information of the House. This is 489 (a) to 489 (e). All are talking about counterfeiting of notes. But why have you kept (e)? You know the punishment of (e)? It is only a fine of Rs. 100. So you are giving a handle in the hand of the executor, the police officer. If you want to release anybody under this Section, he will book him and release him after charging not Rs. 100, maybe something more. What will you do? He has involved the Schedule. Why have you kept this Section here? You must keep some section where you can send them to jail for whole life or at least for ten years. But, why this? You are a learned lawyer. You know better than me. You can read all this. The second thing is, Sir, why have you chosen this unlawful activity? You know the historical background of this Bill. It was started in 1967. Why was it started? It was started for a district, Aizawl to control the Mizo agitation. You want to build the entire preventive Bill on that. Rajiv Gandhi has done a marvellous job. He has gone for Rajiv Lal Denga Accord and after that peace returned to Mizoram. But, do you think this is enough? Whatever it maybe, if your foundation is weak, whatever building you may make, it will fall down like a pack of cards. Today you need a Bill. Everybody saw it. They were using Blackberry, they were using VOIP, they were using Google maps, they were using all sorts of gadgets which are available today and they were not only using the internet of India, they were using the internet of Russia, Pakistan, Bangladesh. You cannot locate it. They were using satellite phones which cannot be jammed by Indian jammers because satellite phones work from Austria or from America. One connection was from New Jersey and another connection was from Austria. They were getting all information from Bangladesh and a Bangladesh person was talking to Pakistan and he was getting information. And do you think with this Bill and with this Rs. 100 fine we are going to control? You must think about it. You have brought a Bill and it is our moral responsibility as a BJP party and we have decided that we will support whatever you do. Punish them, stop this menace and if required finish the breeding centre from where they are coming but do something. Do it with iron hands, not with velvet hands, and, I believe, you will not use a

velvet gloves, you will use the iron hand because I have seen you working as an Internal Security Minister. This is your assignment. This is a challenge for you. The entire nation has reposed trust on you. You come out and do something but don't depend on redundant Bills.

श्री अहमद सईद मलीहाबादी (पश्चिमी बंगाल) : सर, हमारे Hon'ble Home Minister ने जो दो बिल, National Investigative Agency Bill और Unlawful Activities (Prevention) Amendment Bill, पेश किए हैं, हम लोग उनकी sopport करते हैं। आज हमारे देश के ऊपर जो हमला शुरू हुआ है, अब उसका मुकाबला करने के लिए जरूरी हो गया है कि हमारी हुकूमत और पूरी क़ौम पूरी मजबूती के साथ उस मुकाबले के लिए तैयार हो जाएं और उसका मुकाबला करे। हमारी हुकूमत में जो एजेंसियां हैं, जो machineries हैं, ये दोनों कानून उनके हाथ मजबूत करने के लिए हैं। हम यह जरूरी समझते हैं कि मुंबई में जो वाक़िआत पेश आए हैं और अब यह जो नेशनल इन्वेस्टिगेटिव एजेंसी establish हो रही है, इस बिल के पास हो जाने के साथ ही साथ इस एजेंसी को operation में आ जाना चाहिए। महोदय, मेरी आपके माध्यम से यह विनती है कि यह National Investigative Agency अपना पहला केस जिसको investigate करे, वह केस हो, जो हमारे देश के ऊपर मुंबई में इतना बड़ा हमला हुआ है, उसकी गहराई के अंदर जाए कि आखिर ये सब कैसे हुआ, क्यों कर हुआ, किसके दोष से हुआ और कौन उसके लिए जिम्मेदार हो सकता है!

[**उपसभापति महोदय** पीठासीन हुए]

यह investigate करना इसलिए बहुत जरूरी है, क्योंकि अब यह बात establish हो गई है कि जो कुछ यहां हुआ है, यह हमारा indigenous terrorism नहीं है, यह बाहर से इम्पोर्ट किया गया है, यह internationally साजिश के तहत हुआ है, लिहाजा उस साजिश की गहराई में जाना बहुत जरूरी है। हम यह देख रहे हैं कि हमारे पड़ोसी मुल्क से यहां जो कुछ भी हरकतें की जा रही हैं, अब वहां से वह जो कुछ कह रहे हैं, वह उसका ताना-बाना बहुत दूर तक ले जा रहे हैं। महोदय, मैं आपके माध्यम से इस बात को कहना चाहता हूँ कि हमारे पड़ोसी मुल्क पाकिस्तान के सदरे मोहतरम् जनाब जरदारी साहब ने कल एक foreign news agency को interview दिया है और उसमें अब उन्होंने एक नया शोशा छोड़ा है कि पाकिस्तान का इसमें कोई दोष नहीं है, बल्कि यह सब अमेरिका की CIA ने कराई है। हमें तो इस बात का इंतजार था कि शायद वह इसके साथ मोसाद का भी नाम लेंगे। जब ये बातें यहां तक पहुंच रही हैं, तो यह बहुत जरूरी हो जाता है कि हम जो एजेंसी कायम करने जा रहे हैं, वह जल्द से जल्द कायम हो और उसका काम भी शुरू करा दें। अब इस सिलसिले में यहां कुछ बातें ऐसी हुई हैं, हम लोग सुबह से सुन रहे हैं और कल लोक सभा में जो चर्चा हुई थी, जो कुछ भी मुंबई में हुआ है, जो लोग मारे गए हैं, चाहे वे पुलिस फोर्स के हों, चाहे NSG के हों, जो भी आम पब्लिक हो, सबके साथ हमारी हमदर्दी है। हम लोग उनके दुख और गम में शरीक हैं, लेकिन यह बात जरूरी है कि लोगों के दिल में जो ख्याल पैदा होता है, सब लोग यह सोचते हैं, अब सारा इल्जाम politician के ऊपर आ रहा है कि आपने कुछ नहीं किया। यहां सवाल यह पैदा होता है कि हुकूमत ने उसकी रोकथाम के लिए जो भी machineries कायम कर रखी हैं, उन्होंने अपना काम पूरा किया है या नहीं किया है ! वहां हमारे एक बहुत बहादुर पुलिस के ऑफिसर मारे गए, उनकी मौत के बारे में, उनकी शहादत के बारे में, उनकी हलाकत के बारे में सब लोगों को पूरी हमदर्दी है, लेकिन लोग यह बात जरूर सोचते हैं कि यह सब कैसे हो गया। इन सबकी गहराई में जाना बहुत जरूरी है। हम यह चाहते हैं कि हमारे पूरे nation में किसी के दिमाग में कोई शक और शुबाह न रहे कि कोई गलत बात इसके अंदर हो रही है, ताकि पूरी क़ौम इसके साथ मुत्तहिद हो सके।

महोदय, जहां तक Unlawful Activities (Prevention) Amendment बिल की बात है, उसमें हम पूरी तरह से हुकूमत के साथ हैं, लेकिन इसके सिलसिले में आज सुबह ही Hon'ble Home Minister कह रहे थे कि हम इस बिल के ऊपर फिर दोबारा फरवरी के महीने में देखेंगे। मैं यह समझता हूँ कि दुनिया का कोई भी कानून एकदम final नहीं होता है, उसमें कभी न कभी और कहीं न कहीं कुछ करने की जरूरत पेश आती है। आज यहां जो amendments पेश हुए हैं, उनको जरूर consider करना चाहिए। खास तौर से यह जो छः महीने यानी 180 दिन का लंबा period रखा गया है, मेरे ख्याल से यह बहुत ज्यादा है, इसके बारे में जरूर सोचना चाहिए। इसके बारे में, लोगों की लिबर्टी के बारे में ज़रूर सोचना चाहिए। अगर innocent आदमी की लिबर्टी जाती है, तो यह खुद अपनी जगह पर एक अपराध है, लेकिन जो मुजरिम है, उसकी लिबर्टी जाती है, तो उसके लिए 180 दिन क्या हैं, उसके लिए 2 लाख 80 दिन भी कम हैं, उसके लिए होल लाइफ भी कर दिया जाए, तो कम है। लेकिन किसी भी निर्दोष आदमी को, बेगुनाह आदमी को लंबे पीरियड के लिए महज़ शको-शुबहे में नहीं रखना चाहिए, इसलिए कि हमारे सामने एक हिस्ट्री है — टाडा की हिस्ट्री है, पोटा की हिस्ट्री है। उसके बारे में लोगों में बहुत शको-शुबहा रहा है कि हज़ारों हज़ार आदमी ....आज भी यह पेश हो रहा था कि 75,000-80,000 आदमी पकड़े गए और उसमें कितने आदमियों का conviction हुआ? आखिर में सबको छोड़ना पड़ा। आठ-आठ साल, दस-दस साल लोग बंद रहे और उसमें सबसे ज्यादा अफसोसनाक बात यह है कि उसमें माइनॉरिटी कम्युनिटी के लोग ज्यादा थे, उनकी तादाद बहुत ज्यादा थी। आज लोगों के दिल में यह ख्याल पैदा हो रहा है, यह सवाल उठाया गया है कि अब जो यह कानून बन रहा है, इसमें फिर कोई चोट वहां न पड़े। मेरे कहने का मकसद यहां यह है कि कानून कितना भी अच्छा बने, 302 का मर्डर का कानून बना - इसमें कोई कंट्रोवर्सी नहीं है, लेकिन अगर 302 को अगर कहीं भी misuse किया जाएगा, कोई बेगुनाह पकड़ा जाता है और उसको तकलीफ उठानी पड़ती है, तो वह misuse है। सवाल यहां यह है कि हम कानून तो अच्छे से अच्छा बना सकते हैं, उसको इंप्लिमेंट करने वाली मशीनरी जो है, उसके ऊपर हमारा पूरा कंट्रोल होना चाहिए। यह बात इसलिए बहुत ज़रूरी है। मैं समझता हूं कि जो अमेंडमेंट्स यहां पेश किए गए हैं, खास तौर पर यह जो लंबा पीरियड है, इसको अगर रिड्यूस किया जा सकता है, तो किया जाए। तीन महीने की मुद्दत तो बहुत होती है कि 90 दिनों तक हम किसी को रखें। हम क्या investigate नहीं कर सकते? तीन महीने में भी नहीं कर सकते?

दूसरी बात जो हैं...**(समय की घंटी)**... मैं आखिर में सिर्फ यह कहना चाहता हूं कि कोर्ट के अंदर नैचुरल जस्टिस से हमको पीछे नहीं हटना चाहिए। अगर हम नेचर के खिलाफ जाएंगे, नैचुरल जस्टिस के खिलाफ जाएंगे, तो वह अन्याय वहां से शुरू हो जाता है। कोई शख्स जो accused बनाया गया है, जिसके ऊपर इलज़ाम लगाया गया है, उसके ऊपर पहले तो prosecution को अपना केस प्रूव करना चाहिए, उसके बाद हम उसको डिफेंस का हक देते हैं। लेकिन अब अगर हम यह presume कर लें कि नहीं, जो पकड़ा गया है, उसको ही अपने को निर्दोष साबित करना होगा, तो मैं समझता हूं कि यह नैचुरल जस्टिस नहीं है। इसलिए इन बातों का ध्यान रखना चाहिए। ये जो अमेंडमेंट्स आए हैं, इनके ऊपर ज़रूर हमारे ऑनरेबल होम मिनिस्टर साहब को और इस House को गौर करना चाहिए। अगर हम इसी initial stage में कुछ सुधार कर सकते हैं, तो करें, क्योंकि जहां से हम शुरू कर रहे हैं, उसकी बुनियाद गलत नहीं होनी चाहिए और सबसे बड़ी बात यह है कि हम जो काम करने जा रहे हैं, उसके लिए हमारी पूरी कौम का confidence हमें हासिल होना चाहिए कि हम right direction में जा रहे हैं, सही सिम्त में काम कर रहे हैं और हम अपने देश की रक्षा के लिए जो कुछ मुमकिन है, सब करेंगे और इसमें पूरी कौम को एकजुट होना है। ..**(समय की घंटी)**... किसी को अलग-अलग होने का सवाल नहीं है। न इसमें communalisation का सवाल है, न इसमें किसी तरह का हिंदू और मुसलमान का सवाल है। आज पूरी कौम को एक साथ होना है — हिंदू को भी, मुसलमान को भी, सिख को भी और ईसाई को भी। बहुत-बहुत शुक्रिया।

جناب احمد سعید ملیح آبادی (مغربی بنگال) : سر، ہمارے آنریبل ہوم منسٹر نے جو دو بل Unlawful Activities (Prevention) اور Nation Investigative Agency Bill Amendment Bill پیش کئے ہیں، ہم لوگ ان کی سپورٹ کرتے ہیں۔ آج ہمارے دیش کے اوپر جو حملہ شروع ہوا ہے، اب اس کا مقابلہ کرنے کے لئے ضروری ہو گیا ہے کہ ہماری حکومت اور پوری قوم پوری مضبوطی کے ساتھہ اس مقابلے کے لئے تیار ہو جائیں اور اس کا مقابلہ کرے۔ ہماری حکومت میں جو ایجنسیاں ہیں، جو مشینریز ہیں، یہ دونوں قانون ان کے ہاتھہ مضبوط کرنے کے لئے ہیں۔ ہم یہ ضروری سمجھتے ہیں کہ ممبئی میں جو واقعات پیش آئے ہیں اور اب یہ جو نیشنل انویسٹی گیٹو ایجنسی establish ہو رہی ہے، اس بل کے پاس ہو جانے کے ساتھہ ہی ساتھہ اس ایجنسی کو آپریشن میں آ جانا چاہئے۔

مہودے، میری آپ کے مادھیم سے یہ ونتی ہے یہ نیشنل انویسٹی گیٹو ایجنسی اپنا پہلا کیس جس کو انویسٹی گیٹ کرے، وہ کیس ہو، جو ہمارے دیش کے اوپر ممبئی میں اتنا بڑا حملہ ہوا ہے، اس کی گہرائی کے اندر جائے کہ آخر یہ سب کیسے ہوا، کیوں کر ہوا، کس کے دوش سے ہوا اور کون اس کے لئے ذمہ دار ہو سکتا ہو۔ یہ انویسٹی گیٹ کرنا اس لئے بہت ضروری ہے، کیوں کہ اب یہ بات establish ہو گئی ہے کہ جو کچھہ یہاں ہوا ہے، یہ ہمارا indigenous terrorism نہیں ہے، یہ باہر سے امپورٹ کیا گیا ہے، یہ انٹرنیشنلی سازش کے تحت ہوا ہے، لہذا اس سازش کی گہرائی میں جانا بہت ضروری ہے۔ ہم یہ دیکھہ رہے ہیں کہ ہمارے پڑوسی ملک سے یہاں جو کچھہ بھی حرکتیں کی جا رہی ہیں، اب وہاں سے وہ جو کچھہ کہہ رہے ہیں، وہ اس کا تانا باتا بہت دور تک لے جا رہے ہیں۔

مہودے، میں آپ کے مادھیم سے اس بات کو کہنا چاہتا ہوں کہ ہمارے پڑوسی ملک پاکستان کے صدر محترم جناب زرداری صاحب نے کل ایک فارین نیوز ایجنسی کو انٹرویو دیا ہے اور اس میں اب انہوں نے ایک نیا شوشہ چھوڑا ہے کہ پاکستان کا

Transliteration in Urdu Script.

اس میں کوئی دوش نہیں ہے، بلکہ یہ سب امریکا کی سی۔آئی۔اے۔ نے کرائی ہے۔ ہمیں تو اس بات کا انتظار تھا کہ شاید وہ اس کے ساتھ موساد کا بھی نام لیں گے۔ جب یہ باتیں یہاں تک پہنچ رہی ہیں، تو یہ بہت ضروری ہو جاتا ہے کہ ہم جو ایجنسی قائم کرنے جا رہے ہیں، وہ جلد سے جلد قائم ہو اور اس کا کام بھی شروع کرا دیں۔ اب اس سلسلے میں یہاں کچھ باتیں ایسی ہوئی ہیں، ہم لوگ صبح سے سن رہے ہیں اور کل لوک سبھا میں چرچا ہوئی تھی، جو کچھ بھی ممبئی میں ہوا ہے، جو لوگ مارے گئے ہیں، چاہے وہ پولیس فورس کے ہوں، چاہے این۔ایس۔جی۔ کے ہوں، جو بھی عام پبلک ہو، سب کے ساتھ ہماری ہمدردی ہے۔ ہم لوگ ان کے دکھ اور غم میں شریک ہیں۔ لیکن یہ بات ضروری ہے کہ لوگوں کے دل میں جو خیال پیدا ہوتا ہے، سب لوگ یہ سوچتے ہیں، اب سارا الزام پولیٹیشن کے اوپر آ رہا ہے کہ آپ نے کچھ نہیں کیا۔ یہاں سوال یہ پیدا ہوتا ہے کہ حکومت نے اس کی روک تھام کے لئے جو بھی مشینریز قائم کر رکھی ہیں، انہوں نے اپنا کام پورا کیا ہے یا نہیں کیا ہے۔ وہاں ہمارے ایک بہت بہادر پولس کے آفیسر مارے گئے، ان کی موت کے بارے میں ، ان کی شہادت کے بارے میں، ان کی ہلاکت کے بارے میں سب لوگوں کو پوری ہمدردی ہے، لیکن لوگ یہ بات ضرور سوچتے ہیں کہ یہ سب کیسے ہو گیا! ان سب کی گہرائی میں جانا بہت ضروری ہے۔ ہم یہ سوچتے ہیں کہ ہمارے پورے نیشن میں کسی کے دماغ میں کوئی شک و شبہ نہ رہے کہ کوئی غلط بات اس کے اندر ہو رہی ہے، تاکہ پوری قوم اس کے ساتھ متحد ہو سکے۔

مہودے، جہاں تک Unlawful Activities (Prevention) Amendment بل کی بات ہے، اس میں ہم پوری طرح سے حکومت کے ساتھ ہیں، لیکن اس کے سلسلے میں آج صبح کی آنریبل ہوم منسٹر کہہ رہے تھے کہ ہم اس بل کے اوپر پھر دوبارہ فروری کے مہینے میں دیکھیں۔ میں یہ سمجھتا ہوں کہ دنیا کا کوئی بھی قانون ایکدم فائنل نہیں ہوتا ہے، اس میں کبھی نہ کبھی اور کہیں نہ کہیں کچھ کرنے کی

ضرورت پیش آتی ہے۔ آج یہاں جو امینڈمینٹس پیش ہوئے ہیں، ان کو ضرور consider کرنا چاہئے۔ خاص طورسے یہ جو چھ مہینے یعنی 180 دن کا لمبا پیریڈ رکھا گیا ہے، میرے خیال سے یہ بہت زیادہ ہے، اس کے بارے میں ضرور سوچنا چاہئے۔ اس کے بارے میں، لوگوں کی لبرٹی کے بارے میں ضرور سوچنا چاہئے۔ اگر innocent آدمی کی لبرٹی جاتی ہے، تو یہ خود اپنی جگہ پر ایک اپرادھ ہے، لیکن جو مجرم ہے، اس کی لبرٹی جاتی ہے، تو اس کے لئے 180 دن کیا ہیں، اس کے لئے 2 لاکھ 80 دن بھی کم ہیں، اس کے لئے ہول لائف بھی کر دیا جائے، تو کم ہے۔ لیکن کسی بھی نردوش آدمی کو، بے گناہ آدمی کو لمبے پیریڈ کے لئے محض شک و شبہ میں نہیں رکھنا چاہئے، اس لئے کہ ہمارے سامنے ایک ہسٹری ہے، ٹاڈا کی ہسٹری ہے، پوٹا کی ہسٹری ہے۔ اس کے بارے میں لوگوں میں بہت شک و شبہ رہا ہے اور ہزاروں ہزار آدمی۔۔۔۔ آج بھی یہ پیش ہوا رہا تھا کہ 75،000-80،000 آدمی پکڑے گئے اور اس میں کتنے آدمیوں کا کنوکشن ہوا؟ آخر میں سب کو چھوڑنا پڑا۔ آٹھ۔آٹھ سال، دس۔دس سال لوگ بند رہے اور اس میں سب سے زیادہ افسوسناک بات یہ ہے کہ اس میں مائنارٹی کمیونٹی کے لوگ زیادہ تھے، ان کی تعداد بہت زیادہ تھی۔ آج لوگوں کے دل میں یہ خیال پیدا ہو رہا ہے، یہ سوال اٹھایا گیا ہے کہ اب جو یہ قانون بن رہا ہے، اس میں پھر کوئی چوٹ وہاں نہ پڑے۔ میرے کہنے کا مقصد یہاں یہ ہے کہ قانون کتنا بھی اچھا بنے، 302 کا مرڈر کا قانون بنا۔ اس میں کوئی کنٹروورسی نہیں ہے۔ لیکن اگر 302 کو اگر کہیں بھی مس۔یوز کیا جائے گا، کوئی بے گناہ پکڑا جاتا ہے اور اس کو تکلیف اٹھانی پڑتی ہے، تو وہ مس۔یوز ہے۔ سوال یہاں یہ ہے کہ ہم قانون تو اچھے سے اچھا بنا سکتے ہیں، اس کو امپلی مینٹ کرنے والی مشینری جو ہے، اس کے اوپر ہمارا پورا کنٹرول ہونا چاہئے۔ یہ بات اس لئے بہت ضروری ہے۔ میں سمجھتا ہوں کہ جو امینڈمینٹس یہاں پیش کئے گئے ہیں، خاص طورہ پر یہ یہ لمبا پیریڈ ہے، اس کو اگر ریڈیوس کیا جا سکتا ہے، تو کیا جائے۔

تین مہینے کی مدت تو بہت ہوتی ہے کہ 90 دنوں تک ہم کسی کو رکھیں۔ ہم کیا انویسٹی گیٹ نہیں کر سکتے؟ تین مہینے میں بھی نہیں کر سکتے؟

دوسری بات جو ہے ---(وقت کی گھنٹی)--- میں آخر میں صرف یہ کہنا چاہتا ہوں کہ کورٹ کے اندر نیچرل جسٹس سے ہم کو پیچھے نہیں ہٹنا چاہئے۔ اگر ہم نیچر کے خلاف جائیں گے، نیچرل جسٹس کے خلاف جائیں گے، تو وہ انیائے وہاں سے شروع ہو جاتا ہے۔ کوئی شخص جو accused بنایا گیا ہے، جس کے اوپر الزام لگایا گیا ہے، اس کے اوپر پہلے تو prosecution کو اپنا کیس پرووو کرنا چاہئے، اس کے بعد ہم اس کو ڈفینس کا حق دیتے ہیں۔ لیکن اگر ہم یہ presume کر لیں کہ نہیں، جو پکڑا گیا ہے، اس کو ہی اپنے کو نردوش ثابت کرنا ہوگا، تو میں سمجھتا ہوں کہ یہ نیچرل جسٹس نہیں ہے۔ اس لئے ان باتوں کا دھیان رکھنا چاہئے۔ یہ جو امینڈمینٹس آئے ہیں، ان کے اوپر ضرور ہمارے آنریبل ہوم منسٹر صاحب کو اور اس ہاؤس کو غور کرنا چاہئے۔ اگر ہم اسی initial stage میں کچھ سدھار کر سکتے ہیں، تو کریں، کیوں کہ جہاں سے ہم شروع کر رہے ہیں، اس کی بنیاد غلط نہیں ہونی چاہئے اور سب سے بڑی بات یہ ہے کہ ہم جو کام کرنے جا رہے ہیں، اس کے لئے ہماری قوم کا کونفڈینس ہمیں حاصل ہونا چاہئے کہ ہم رائٹ ڈائریکشن میں جا رہے ہیں، صحیح سمت میں کام کر رہے ہیں اور ہم اپنے دیش کی رکشا کے لئے جو کچھ ممکن ہے، سب کریں گے اور اس میں پوری قوم کو ایکجٹ ہونا چاہئے ---(وقت کی گھنٹی)--- کسی کو الگ الگ ہونے کا سوال نہیں ہے۔ نہ اس میں کمیونلائزیشن کا سوال ہے، نہ اس میں کسی طرح کا ہندو اور مسلمان کا سوال ہے۔ آج پوری قوم کو ایک ساتھ ہونا ہے - ہندو کو بھی مسلمان کو بھی، سکھ کو بھی اور عیسائی کو بھی۔

بہت بہت شکریہ۔

"ختم شد"

SHRI KUMAR DEEPAK DAS (Assam): Sir, there have been a number of massive terrorist attacks in the country. Now, the Government of India intends to add extra teeth to the law in an effort to win the war against terrorism. A new federal agency has been proposed to exclusively investigate the terror crimes. The Government is also amending the provisions of the Unlawful Activities (Prevention) Act. The Assam Gana Parishad is always in favour of taking stern action against terrorist activities in the country. But in the name of anti-terrorism actions, the human rights of innocent people should not be violated. We have had very bad experience of the draconian law, called, the Armed Forces Special Power Act, the POTA and the TADA in the past. To fight the *naga* rebels in Nagaland, the Armed Forces Special Power Act was imposed, but the terrorist activities are still there in Nagaland. Later on, it was extended to the entire North-East, but the terrorist activities could not be curbed. However, due to this Act, a number of cases of human rights violation happened in Assam, Nagaland and Manipur. A constable can kill a person without any investigation in the name of tackling terrorism. Such a draconian Act should be scrapped.

The hon. Members and the senior lawyers, like, Jaitleyji, Kapil Sibalji, discussed about the TADA and the POTA, but, I am sorry, they did not utter even a single word about the draconian law that prevails only in the North-East. Why is it applicable to the North-Eastern region only? The misuse of TADA and NSA for detaining political opponents has been evident in the past. Therefore, on behalf of the Assam Gana Parishad, I appeal to the Government and to all sections of this House to support this point that Parliament should have, at least, six months time for review of Unlawful Activities Prevention Act, even though it is a permanent law. We must remember, TADA and POTA were rolled back after receiving complaints of abuse. The Government should make a provision for monitoring implementation of UAPA through an all-Party Parliamentary Committee. Sir, please don't compromise human rights and fundamental rights of the people in the name of curbing terrorism. Sir, I believe, only enacting laws will not curb terrorism in the North East. There are three major issues that the Government of India should take up for redressal. First, it should stop illegal immigration and seal the Indo-Bangladesh border. Secondly, it should concentrate on the development of the North Eastern Region. We are far behind other parts of the country. Thirdly, there is the unemployment problem. In Assam alone, there are 22 lakh unemployed people. The Government should, definitely, take proper and necessary action in this regard. With these few words, I conclude my speech. Thank you.

SHRI ABANI ROY (West Bengal): Mr. Deputy Chairman, Sir, I am here to support the Bill with some amendments or with some corrections. लेकिन दुर्भाग्य यह है कि जब इस बिल को लेकर चर्चा हो रही है और 10 तारीख के बाद जब यह पार्लियामेंट बैठी तो जिस भावना के साथ, जिस स्पिरिट के साथ हमने उस दिन आतंकवादी हमले की निन्दा की थी और सभी पार्टियों ने एक होकर — उसको कैसे रोका जाए — इस संबंध में बात की थी। लेकिन आज जब कानून की बात आ रही है या उसको रोकने की बात आ रही है तो हम यहां पर बहुत सारी बातें कर रहे हैं। उसका एक कारण यह भी है कि

7.00 P.M.

हमारा जो पिछला तजुर्बा है, उसमें हमने देखा कि जब भी कोई कानून बना, उसका दुरुपयोग अधिक हुआ है। इस दुरुपयोग के कारण हमें यह भी डर है कि न जाने इस कानून का कैसे इस्तेमाल किया जाएगा। अगर इसका सही ढंग से इस्तेमाल नहीं होगा तो क्या होगा? जो-जो चीज़ ये लेकर आए हैं, चर्चा का विषय वही था। पहले पोटा लाए, पोटा को भी बाहर कर दिया। पोटा के बाद आप कितना स्ट्रॉंग विधेयक लेकर आए हैं, अगर वह दिखाने वाली बात है कि हम आपसे भी स्ट्रॉंग विधेयक लेकर आए हैं, उससे भी जबर्दस्त लाए हैं तो मेरे ख्याल से इस कंपीटिशन से इसको रोका नहीं जा सकता। इसके बाद जो स्टेट की लॉ ऐंड ऑर्डर की बात है, उसको भी देखना जरूरी है। मैं केवल प्वाइंट्स कह रहा हूं। हम जो मिलिटेंट्स और टेररिस्ट्स बनाते हैं — "हम बनाते हैं" मैं इसलिए कह रहा हूं कि खाली टेररिस्ट कहने से बाहर के जो तत्व हैं, वे तो हैं ही, उन्होंने किस ढंग से हमारे ऊपर आक्रमण किया, उनके पास कैसे हथियार थे, उनके पास क्या नयी-नयी तकनीक थी, अगर हमारे पास उनके बराबर की शक्तिशाली तकनीक नहीं होगी तो हम इसको नहीं रोक पाएंगे। इसलिए हम कोई भी कानून बनाएं, इनको रोका नहीं जा सकता। हम जो इनवेस्टिगेटिंग एजेंसी बना रहे हैं, अगर हम उसे तकनीकी रूप से शक्तिशाली नहीं बनाएंगे तो हम इसको नहीं रोक पाएंगे। इसलिए सवाल यह उठता है कि हम इसमें किन्हें लेकर आएंगे? जो हमारी पुरानी एजेंसीज़ हैं, रॉ है, सीबीआई है या दूसरी इंटेलीजेंस एजेंसीज़ हैं, उन्हीं में से कुछ आदमियों को उधार लेकर नयी एजेंसी बनाएंगे या क्या करेंगे, यह हमें नहीं मालूम है। इस बारे में विचार करना चाहिए कि हम किस प्रकार से इसे बनाएं और कैसे इसको इक्विप करें और कहां पर इनको डेप्यूट करें। वे यह कैसे तय कर पाएंगे कि हम उसके नीचे हैं या उसके ऊपर है? यह भी सवाल उठता है कि हमारी इंटेलीजेंस की जो खबर होगी, वह खबर कैसी होगी, इस सबका ध्यान देना चाहिए। साथ ही साथ मैं यह भी कहूंगा कि इसमें जो टेरोरिज्म की बात है और टेरोरिज्म में लेफ्ट विंग की बात कही गई है। हमें पता नहीं I All are in the right wing, so they attack the Left wing. This is not the way. यह गलत बात है। Terrorism is terrorism और टेरोरिज्म से फाइट करना है, लेफ्ट विंग के हों, राइट विंग के हों, कहीं के भी हों हमें उसके लिए देखना चाहिए। You should not mention it in this way. क्यों न हमारे यहां जो टेरोरिज्म है, बहुत दिन से असम में उल्फा हो, हूजी हो या कोई भी हो, जो चलते आ रहे हैं, और वहां पर हमेशा हफ्ते या महीने में कुछ न कुछ घटना होती है। तो इसके लिए हम क्यों नहीं करें। हमने अभी कुछ दिन पहले देखा कि वहां पर भाषा के कारण ही कुछ गड़बड़ हो गई। तो हर चीज को ध्यान में रखें। यह ऐसा नहीं है कि हमने खाली लेफ्ट वाले को कह दिया और लेफ्ट में क्या है और क्या नहीं है, वह भी देखा जाए कि जो टेरोरिज्म पैदा करेगा उस पर हम यह कार्रवाई करेंगे। इसके साथ-साथ अमेंडमेंट में भी रखा गया कि इतने दिन यहां होना चाहिए, इतने दिन वहां होना चाहिए। ऐसा मैं इसलिए कह रहा हूं कि हम सभी जानते हैं कि हम उनको कैसे पकड़ते हैं और फिर बाद उसका क्या होता है। यहां एक छोटा सा नमूना है, क्योंकि कुछ समय पहले नोएडा में एक मर्डर हुआ था और उस केस में क्या चल रहा है, क्या नहीं चल रहा है, हमें पता नहीं है। अगर यही हालत होगी तो पता नहीं कि हम कहां तक पहुंच पाएंगे। इसलिए इसके ऊपर नजर रखी जाए। खास करके जब उनको कहा गया कि प्रूव करना पड़ेगा कि वे आतंकवादी नहीं हैं, इन्नोसेंट हैं, यह तो बाद की बात है। अगर हमको जेल में 180 दिन रखा जाए तो पुलिस के टोर्चर के बाद हम कबूल करने के लिए बाध्य हो जाएंगे कि हम क्या हैं, क्या नहीं है। इसलिए इसमें सब चीज को देखा जाए। हमने इससे पहले डी0आई0आर0 देखा, मीसा देखा, टाडा देखा, पोटा देखा और बार-बार मैं कह रहा हूं कि इसका यूज ठीक से हो, मिस-यूज न हो। हम कोई भी लॉ बना लें, कोई भी ड्रेकोनियन लॉ ले आएं, जैसा अभी दीपक दास जी ने बोला कि नॉर्थ ईस्ट में जो है तथा उसका नतीजा भी देखा। कुछ दिन पहले मणिपुर की महिलाओं ने इसका किस प्रकार

प्रतिवाद किया था। तो हर चीज को ध्यान में रखते हुए हम इसको लें और ऐसा लॉ बनाएं, ऐसी इंवेस्टीगेशन एजेंसी बनाएं जिससे हमारे देश का टेरोरिज्म खत्म हो। जो बात हमने इससे पहले दिन शुरू की थी उस हालत में, we shall have to fight for terrorism and we have to end terrorism. If we want to end terrorism by our will, by our force, then we have to think in a different way and we have to act according to that. I think, the Government of India, while making this law and this Investigating Agency, should keep in mind that this should be used properly. This should be used for the internal terrorists or for the external terrorists. It should be used for terrorists and not for creating terrors for those who are innocent. Thank you.

SHRI M.V. MYSURA REDDY (Andhra Pradesh): Mr. Deputy Chairman, Sir, I will support this Bill on behalf of the Telugu Desam Party in the national interest.

The one thing that I want to say is that these two Bills, i.e., the NIA Bill and the UAPA Bill, are reactive rather than proactive. Now, the people of India are facing terrorism of one type. They are *fidayeens* who are coming from foreign land. Some terrorists within the country strike in this country and run away either to Bangladesh or to Pakistan. These are safe havens for them. Then, we are fighting with such enemies who are having scant respect for our law and they are perverted and sadist also. Another aspect of this is that financial assistance, training, recruitment of such terrorists and conspiracies are conceived by foreign masters. Sir, there are two Bills. One is meant for investigation while the other is meant for prosecution. If we analyse the Mumbai incident and other such incidents, the terrorists either get killed by the security personnel, or they take people hostages to protect themselves, or, as a last resort, commit suicide. So, the proposed NIA would start working only after the incident takes place. There is not much to investigate because the accused would have either died or fled to other countries. We can only gain some experience out of these investigations. As for prosecution, I would say they don't come to us with folded hands to get themselves arrested or taken into custody! If you look at the figures of the last decade, very few people got arrested.

Sir, as far as terrorists are concerned, this law is odourless, tasteless and colourless. But when it comes to the common man, it is a draconian law. For example, if a man rents his room to a youngster, a student, who then turns into a terrorist and gets involved in some unlawful activity, then according to the section for prosecution, that landowner shall be considered to have aided or abetted the crime and he shall be booked. Either knowingly or unknowingly, the landlord becomes a victim of this draconian law. At some stage, Clauses 43E(a)(b) could be misused and they could be misused even politically. So, there has to be some review mechanism. There is a review mechanism provided for in this Bill, but it is not sufficient to protect the common man. They need conduct review case by case and see to it that no innocent person is harassed. Such provisions should be provided for in this Act. Otherwise, this law would definitely be misused against the common man.

Then, Sir, terrorists have the intention of destruction and they have scant respect for our laws and our Constitution. They want to destabilise the country. We cannot do much with these

two laws. It is like a Pundit chanting a powerful *mantra* before an angry tiger! They come here to destabilise the country. They are not believers of our Constitution and our laws. In such a situation, why should we think of giving any kind of protection or think of the human rights angle for such terrorists as if they are law-abiding citizens?

One more point and I shall conclude my speech, Sir. Intelligence plays a more role in the prevention of terrorism. Of course, we have the RAW, IB, Defence Intelligence and State Intelligence, but there is no coordination among these agencies. This angle has already been accepted by the Home Minister also. Now, there is need for a dedicated Intelligence agency. At present, the IB and other Intelligence agencies have no accountability. There is no morality in the force and no special prestige for the force. As a result, people do not feel proud working in these Intelligence agencies. I would have been happy if the Home Minister had brought a National Security branch instead of NIA, on the lines of the FBI, so that Intelligence and investigation might have been brought under one law. That might have helped in combating terrorism.

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI M.V. MYSURA REDDY: Sir, I would like to remind one thing. It cannot be controlled in a day, a month or a year. It requires some years of dedicated work. Sir, as the House is aware, the extremism is under control in Andhra Pradesh. The process was started ten years back by me when I was the Home Minister. Now this State is getting fruits. If such type of mechanism with some modification is applied, then terrorism can be controlled in a few years.

SARDAR TARLOCHAN SINGH (Haryana): Thank you, Mr. Deputy Chairman, Sir. First of all, I associate myself with any move of the Government to check terrorism. I come from the State and that community which has been fighting forever against all invaders and terrorists, and we have laid our lives any time if there is a call of the nation. But I have some reservations about this Bill, which we are now discussing. Sir, after the sad happening in Mumbai, people all over the country and even NRIs abroad were feeling that India has not prepared itself to face terrorism and to face the invaders who come from neighbouring country. The Government should not make so much haste in bringing this Bill without consulting the respective Chief Ministers, avoiding Standing Committee on Personnel, Law and Justice. If it was done, we could thoroughly discuss all clauses of the Bill. Sir, in this year also, a Report was submitted by the Committee of Law and Justice about this very topic and suggested certain measures. This Committee also discussed the role of CBI. Sir, this new Agency being set up, we should also know the fate of earlier outfits, especially the CBI. The CBI has got the maximum respect from each State. Every State, whenever there is any happening, transfers the case to the CBI. But now as per the required strength of 4300 posts in CBI, more than 1000 posts are lying vacant. The Government of India has even failed to provide officers to CBI. How will they fill up posts in new agency and how long will it take to select officers because this agency is going to be much

higher and bigger, which is going to all the States? With the experience of CBI, we are worried as to what fate will be of this new agency, which is now coming forth? Sir, we follow the Indian Constitution. We are a federal country and we adhere to this principle that States have their own powers. But every Act of the Government, for the last many decades, is taking certain powers out of the States. With this Bill also there is a fear, because there is a *suo moto* clause, that any time the Government will take over anything in the name of terrorism. Already with the new financial laws States are like becoming municipal committees. They are not having those powers which States should have. India being such a vast country, unless the States are fully equipped we cannot have that strength at the national level. Sir, the need of the day was that Government should have come out with a new policy about our intelligence agencies. The Government should, first of all, bring forward that Bill, not the Bill for investigation. Investigation comes later on. The Government has not come out as to what was the fault of our agencies in handling the terrorists' attacks. There are four or five agencies. Nothing has come out yet as to what was the fault and what the Government is going to do and how you are going to improve your intelligence agencies. What is now the new policy for RAW? That policy has to be told to us instead of this.

Secondly, Sir, with our own experience, we have seen that whenever you give absolute power to the Police, then there is always fear that a normal human being may suffer. Sir, earlier in the debate, many people mentioned about POTA and certain other Acts against minorities. Sir, everybody forgets what role TADA and Central agency performed in Punjab. Mr. Sibal was mentioning that hundreds of people were sent to jail under POTA in Gujarat. Sir, 77,000 Sikhs were kept in jail without trial for years, and nobody bothered. That case is never mentioned here. Thirty-six thousand youths were killed in Punjab by the Police and they were shown in false encounters. **(Time-bell rings)** Even the Supreme Court has mentioned a case to the Human Rights Commission where in one cremation ground, 1500 people were burnt on one day without any record and it has taken six years to investigate that case. So, thousands of people were killed in Punjab.

MR. DEPUTY CHAIRMAN: Please, conclude.

SARDAR TARLOCHAN SINGH: Sir, I can give figures of those villages where for last ten years, no marriage party has taken place because all youths were killed. So, if you give power to Police like this, how will we save our people? There is no clause as to who will monitor this Agency? Is there any Parliamentary Committee to look after what is going to happen?

MR. DEPUTY CHAIRMAN: Tarlochan Singhji, please, conclude.

SARDAR TARLOCHAN SINGH: I will take only one minute. Then, Sir, we have to prepare our Forces; we have to prepare our agencies to fight. Sir, in my earlier speech in the House, I quoted Guru Gobind Singhji. Now, I quote another "जब आव की औध निधान बने, अत ही रण में तब

जूझ मरूं" — every soldier should take a vow like this, that whenever such things happen, I will participate and I will die while fighting. Sir, unless we prepare our Services, you cannot fight terrorism with this Bill. **(Time bell rings)**. Terrorists are suicide attackers...

MR. DEPUTY CHAIRMAN: Please, Tarlochan Singhji, there are another six Members to speak.

SARDAR TARLOCHAN SINGH: So, we must prepare the Forces to act like this, and secondly, Sir, we should also tell the State Chief Ministers that they should prepare their own people how to honour the martyrs. During Kargil War, the then Defence Minister gave a statement that how the States had honoured the martyrs. Maximum martyrs were from my State, Haryana, and there he said that how Shri Om Prakash Chautala took care of all the martyr families at that time should be followed by each State. So, we must come out with such laws and prepare States and the strength of the people to fight. And, last of all, Sir, there is one quotation in Punjabi, "हत्था बाज करारयाँ, बैरी मीत न होण", unless you do something properly, you cannot make your enemies as your friends.

SHRI BHARATKUMAR RAUT (Maharashtra): Sir, at the outset, let me pay my sincere homage to all the martyrs and victims of the terrorist attacks on Mumbai and all attacks before that. Sir, I am here to express the grievances and the feelings of my fellow Mumbaikars who have faced the nightmare of 62 hours starting from 26th November. I come from Mumbai. So, I take it as my prime responsibility to express the feelings, which my people have been telling me. I have received two dozens letters during the last 24 hours. I wanted to read some of them, but due to paucity of time, I cannot read them. They are in Marathi, Hindi, English; from all walks of life and all the religions. People have been expressing their solidarity and people have been expressing their anguish and anger about what happened in the city. Sir, why are people sending letters to my Party and me? This is a very-very sad commentary on the ruling side. People have a feeling that the other side, the ruling Party in the country and in my State, is inactive, inefficient and not honest. Therefore, people are expressing faith in us. Don't they know that we cannot do anything? We are not the ruling Party. At least, for next six months, we will not be on the ruling side. Even then, people are sending letters to us. I think, the Home Minister and the Prime Minister should take this very seriously.

Sir, with heavy heart, I wish to express my solidarity and my support to the two Bills, namely, the Unlawful Activities Prevention (Amendment) Bill, 2008, and, the National Investigation Agency Bill, 2008. I am saying this with heavy heart because though my party and myself support these Bill on the floor of the House, it does not necessarily mean that we accept all the provisions mentioned in these Bills. There are many reasons. There are many areas of doubt that we have, but because the Home Minister has given the assurance that he will come back in February if there is anything required, and, I believe in his sincerity and transparency, we

are supporting it. I will not get into the details of the Bills. This is because I am not a law expert and I am not a typical political leader who can speak on anything and everything. So, I am not getting into the provisions of the law, but, surely, I want to say something. Why I am not taking too much time on provisions of the Bill is because, for me, laws are only the instruments, they are only tools; they are weapons. And, if these weapons are to be used effectively, you have to have strong mind, strong hands and also the commitment to do something for the society and the nation.

My observation is that this commitment, this honesty is lacking in this Government. That is why, I have reservations about the Bill. Sir, I have reservations about the Bill because I have seen from the reports that came in after the incidents that the information about the attack was coming in. Many people from various angles had given the information about the possible attacks. That information had gone to those hands that are supposed to know it. It had gone to the right hands. But the bureaucracy and the intelligence agencies, on the one hand, and, the political leadership, on the other hand, slept over it and we had to face the nightmare.

Sir, do you have the will? I do not think that we have the will. Sir, the Chhatrapati Shivaji Terminus was first to be attacked. Many passengers of the railway, many railway policemen became the victims of the terrorist attack. The President of India, the Home Minister, everybody went there but what happened to the people who run the railways? Where were they? None of the Ministers handling the railway could visit that place. This is because we do not consider Mumbai as our city. There is a lack of will. I am sorry to say but there is a lack of will. You are talking about the national security. Everybody is saying that the national security should come first. The civil aviation sector, the airports, I think, are the most vulnerable spots where these attacks can happen.

While we are taking all the measures on the one hand, we are handing over the ground-handling part of the Indian airports, particularly, the Mumbai and Bengaluru Airports, to the private agencies, international agencies, or, agencies that come from abroad. We have no control over their recruitment. Those people will be controlling the ground-handling department of the airports; from the airport to the aircraft, they will handle everything. I think, we need to review the whole situation. **(Time bell rings)**

Sir, I have to make two more points. We should express our will through various ways. Everybody is talking about the past. If Afzal Guru can remain alive for so much of time, it means, we, ourselves exhibit and declare that we are the soft targets. Why should that happen?

Lastly, Sir, after the attack, so many heads rolled, our Home Minister went, the Maharashtra Government went, but what happened to the intelligence agencies. What happened to the Police Commissioner of Mumbai, what happened to the Director General of Police...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Raut, please conclude.

SHRI BHARATKUMAR RAUT: What happened to the intelligence advisors? Why can't we do something against them? Unless we take the holistic approach, these types of Bills — though against my will — will not suffice. Thank you.

MR. DEPUTY CHAIRMAN: Thank you very much. Now Shri Mahmood A. Madani. *...(Interruptions)...*

श्रीमती जया बच्चन (उत्तर प्रदेश): सर, मैं आपकी इजाजत से एक बात ब्रीफ में कहना चाहती हूँ।

श्री उपसभापति: वह क्या है?

श्रीमती जया बच्चन: सर, अभी मान्यवर ने कहा *

SHRI BHARATKUMAR RAUT: Sir, I don't want to enter into this debate. *(Interruptions)* But I want to set the record straight. *...(Interruptions)...* What do you want? *...(Interruptions)...*

श्रीमती जया बच्चन: *

श्री उपसभापति: नहीं, नहीं। आप इसे छोड़िए। ...(व्यवधान)... No, the debate will go somewhere else. *...(Interruptions)...*

SHRI BHARATKUMAR RAUT: No, Sir, if that goes on record, my explanation should also go on record. *...(Interruptions)...* It is simple. When I am saying. *...(Interruptions)...* You cannot stop me like this. Then expunge that from record. *...(Interruptions)...*

श्री उपसभापति: आप इसमें मत पड़िए... I have called next member.

SHRI BHARATKUMAR RAUT: If that goes on record, I have every right to register my protest and set the record straight. It cannot go one way. *...(Interruptions)...* It cannot go one way.

MR. DEPUTY CHAIRMAN: It is irrelevant.

SHRIMATI JAYA BACHCHAN: Sir, don't put it on record. It was just a comment.

MR. DEPUTY CHAIRMAN: It is not going on record.

SHRI BHARATKUMAR RAUT: If it is expunged, then I thank you, Sir.

श्री उपसभापति: श्री महमूद ए0 मदनी...

श्री महमूद ए0 मदनी (उत्तर प्रदेश): डिप्टी चेयरमैन साहब, आपका शुक्रिया। हम लोग यहाँ पर जमा हैं और मौका यह है कि आज टेररिज्म से फाइट करने के लिए, उसके प्रिवेंशन के लिए दो बिल्स लाए गए हैं। टेररिज्म को प्रिवेंट करना बगैर होलिस्टिक एप्रोच के मुमकिन नहीं है। इसमें एक होलिस्टिक एप्रोच की जरूरत है। मैं इस बारे में बहुत ज्यादा बात करना नहीं चाहता। हमारे सीनियर अश्विनी कुमार जी और इधर जेटली जी ने जेहादियों का जिक्र किया। ये लोग क्रिमिनल्स हैं, जुनूनी हैं और पागल लोग हैं। वे लोग अपने बारे में खुद यह दावा करते हैं कि हम जेहादी हैं। अगर हमने भी उन्हें जेहादी मान लिया तो हम उनको इनडायरेक्टली सपोर्ट

*Not recorded.

कर रहे हैं, डायरेक्टली न सही। जेहाद तो इबादत है, बहुत मुकद्दस काम है। अगर इस वक्त जेहादी कोई है तो मैं हूँ। मैं कर रहा हूँ जेहाद का काम, टेररिज्म की मुखालिफत कर के और उसके खिलाफ पूरे हिन्दुस्तान में तहरीक चला कर के। दुनिया में हिन्दुस्तान ने वह काम किया है जो दुनिया में आज तक कहीं नहीं हुआ था। दुनिया में टेररिज्म के खिलाफ बड़ी कॉन्फ्रेंसेज़ हुई हैं और सेमिनॉर्स हुए हैं, लेकिन mass लेवल पर लाखों लोग सड़कों पर निकल गए हों और शहादत की ऊँगली उठा कर उन्होंने कसम खाई हो कि हम टेररिज्म से लड़ेंगे। यह सिर्फ इसी देश भारत में हुआ है और दुनिया में कहीं नहीं हुआ। तो हम कर रहे हैं जेहाद। हमसे बड़ा जेहादी कोई नहीं हो सकता और ये मक्कार हैं। इनको आप जेहादी मत बताइए और न ही इस्लाम से जोड़िए। इस्लामिक टेररिस्ट, यह शब्द मैंने आज दिन-भर में दो-तीन मर्तबा सुना, इधर से भी और उधर से भी।

दूसरी बात यह कि आप नए लॉ ले कर आ रहे हैं। इसमें कुछ अमेंडमेंट्स के साथ, जो हमारे दोस्तों ने यहाँ पेश किए हैं, जैसे डा० राजा साहब ने। मैं इसको सपोर्ट करता हूँ। लेकिन, साथ में अकाउंटेबिलिटी का system जरूर होना चाहिए। पहले मैंने सुना, कहा गया है कि हर कानून का हर लॉ का दुरुपयोग होता है, तो इसका भी हो जाएगा, ठीक बात है। यह नहीं होना चाहिए, इसकी कोशिश की जाएगी और अगर दुरुपयोग होगा तो उसके खिलाफ लड़ा भी जाएगा। लेकिन, सवाल यह पैदा होता है कि जब आप कोई कानून बनाएँगे, बड़ा कानून है बड़ी चीज़ है और जब बड़ी चीज से लड़ने जा रहे हैं तो बड़ी सेफ्टीपिन होनी चाहिए। इसके लिए अकाउंटेबिलिटी का जरूर इंतजाम होना चाहिए।

मैं समझता हूँ कि कहने के लिए तो हमारे सब साथियों ने बहुत-सारी बातें कह दी हैं। एन०आई०ए० के बारे में एक आखिरी बात कह कर समाप्त करूँगा। मैं ज्यादा टाइम नहीं लूँगा क्योंकि हाउस का टाइम बहुत कीमती है। हमारे राहुल बजाज साहब ने भी इसकी तरफ तवज्जो दिलाई है। यह मजबूत चीज होनी चाहिए और मैं तो कहता हूं कि इसका नाम नेशनल इनवैस्टीगेशन एजेंसी के बजाय नेशनल सेक्युरिटी एजेंसी होना चाहिए और इसे मजबूत व ताकतवर होना चाहिए। इसी के साथ मैं आप से इजाजत चाहूंगा। बहुत-बहुत शुक्रिया।

جناب محمود اے۔ مدنی (اتر پردیش) : ڈپٹی چیئرمین صاحب، آپ کا شکریہ۔ ہم لوگ یہاں پر جمع ہیں اور موقع یہ ہے کہ آج ٹیریرزم سے فائٹ کرنے کے لئے، اس کے پریوینشن کے لئے دو بلس لائے گئے ہیں۔ ٹیریرزم کو پریوینٹ کرنا بغیر ہولسٹک اپیروچ کے ممکن نہیں ہے۔ اس میں ایک ہولسٹک اپیروچ کی ضرورت ہے۔ میں اس بارے میں بہت زیادہ بات کرنا نہیں چاہتا۔ ہمارے سینئر اشونی کمار جی اور ادھر جیٹلی جی نے جہادیوں کا ذکر کیا۔ یہ لوگ کریمنلس ہیں، جنونی ہیں اور پاگل ہیں۔ وہ لوگ اپنے بارے میں خود یہ دعوی کرتے ہیں کہ ہم جہادی ہیں۔ اگر ہم نے بھی انہیں جہادی مان لیا تو ہم ان کو ان-ڈائریکٹلی سپورٹ کر رہے ہیں، ڈائریکٹلی نہ صحیح۔ جہاد تو عبادت ہے، بہت مقدس کام ہے۔ اگر اس وقت جہادی کوئی ہے تو میں ہوں۔ میں کر رہا ہوں جہاد کا کام، ٹیرٹیرزم کی مخالفت کر کے اور اس کے خلاف پورے ہندوستان میں تحریک چلا کر کے۔ دنیا میں ہندوستان نے وہ کام کیا ہے جو دنیا میں آج تک کہیں نہیں ہوا تھا۔ دنیا میں ٹیریرزم کے خلاف بڑی کانفرنسز ہوئی ہیں اور سیمینارس ہوئے ہیں، لیکن ماس لیول پر لاکھوں لوگ سڑکوں پر نکل گئے ہوں اور شہادت کی انگلی اٹھا کر انہوں نے قسم کھائی ہو کہ ہم ٹیریرزم سے لڑیں گے۔ یہ

Transliteration in Urdu Script.

صرف اسی دیش بھارت میں ہوا ہے اور دنیا میں کہیں نہیں ہوا۔ تو ہم کر رہے ہیں جہاد۔ ہم سے بڑا جہادی کوئی نہیں ہو سکتا اور یہ مکار ہیں۔ ان کو آپ جہادی مت بتائیے اورنہ ہی اسلام سے جوڑیے۔ اسلامک ٹیریرسٹ، یہ شبد میں نے آج دن بھر میں دو-تین مرتبہ سنا، ادھر سے بھی اور ادھر سے بھی۔

دوسری بات یہ کہ آپ نئے لاء لے کر آ رہے ہیں۔ اس میں کچھ امینڈمینٹس کے ساتھہ، جو ہمارے دوستوں نے یہاں پیش کئے ہیں، جیسے ڈی۔راجہ صاحب نے۔ میں اس کو سپورٹ کرتا ہوں۔ لیکن، ساتھہ میں اکاؤنٹیبلٹی کا سسٹم ضرور ہونا چاہئے۔ پہلے میں نے سنا، کہا گیا ہے کہ ہر قانون کا ہر لاء کا درپیوگ ہوتا ہے، تو اس کا بھی ہو جائے گا، ٹھیک بات ہے۔ یہ نہیں ہونا چاہئے، اس کی کوشش کی جائے گی اور اگر درپیوگ ہوگا تو اس کے خلاف لڑا بھی جائے گا۔ لیکن، سوال یہ پیدا ہوتا ہے کہ جب آپ کوئی قانون بنائیں گے، بڑا قانون ہے بڑی چیز ہے اور جب بڑی چیز سے لڑنے جا رہے ہیں تو بڑی سیفٹی پن ہونی چاہئے۔ اس کے لئے اکاؤنٹیبلٹی کا ضرور انتظام ہونا چاہئے۔

میں سمجھتا ہوں کہ کہنے کے لئے تو ہمارے سب ساتھیوں نے بہت ساری باتیں کہ دی ہیں۔ این-آئی-اے۔ کے بارے میں ایک آخری بات کہہ کر سماپت کروں گا۔ میں زیادہ ٹائم نہیں لونگا کیونکہ ہاؤس کا ٹائم بہت قیمتی ہے۔ ہمارے راہل بجاج صاحب نے بھی اس کی طرف توجہ دلائی ہے۔ یہ مضبوط چیز ہونی چاہئے اور میں تو کہتا ہوں کہ اس کا نام نیشنل انویسٹی گیشن ایجنسی کے بجائے نیشنل سیکورٹی ایجنسی ہونی چاہئے اور اسے مضبوط اور طاقتور ہونا چاہئے۔ اسی کے ساتھہ میں آپ سے اجازت چاہوں گا۔ بہت بہت شکریہ۔

"ختم شد"

श्री मोहम्मद अदीब (उत्तर प्रदेश): जनाब डिप्टी चैयरमेन साहब, बहुत-बहुत शुक्रिया। आज ये दो बिल लाए गए हैं जिसमें एक को अनलॉफुल एक्टिविटी प्रिवेंशन बिल कहा गया है। मैंने बहुत कोशिश की कि देखूं इस बिल में प्रिवेंशन कहां है? मुझे प्रिवेंशन तो समझ में नहीं आया, यह समझ में आया कि "पोटा", "टोडा" और उसके बाद एक और कानून और यह कानून इसलिए लाया गया कि मुजरिम पकड़ा जाए। प्रिवेंशन की शक्ल आपने दूसरे बिल में जरूर दी है, लेकिन मैं यह समझता हूं कि शायद 4 साल से यू0पी0ए0 के साथ काम करते-करते और यह समझाते हुए कि "पोटा"के कानून में मायनोरिटी के साथ ज्यादती और जुल्म हो रहा है, लेकिन मुंबई के वाकये के बाद कांग्रेस शायद फिर बी0जे0पी0 के दबाव में आ गयी और यहां

बहस इस बात पर शुरू हुई कि तुम्हारा "पोटा" हल्का था और मेरा कानून ज्यादा मजबूत है। मैं आप से हक की बात कहना चाहता हूं कि हर कानून के साथ नीयत और अकाउंबिलिटी होनी चाहिए कि उसकी नीयत क्या है? नीयत यह है कि मैं आज पार्लियामेंट में इसलिए बैठा हूं क्योंकि 2001 से लेकर आज तक "पोटा" के केसेज लड़ रहा हूं। जो लोग 22 साल की उम्र में जेल गए थे, आज वे 27 और 29 साल के हो चुके हैं और उनकी जमानतें नहीं हुई हैं। इस हाउस के बाहर आज मेरी कौम में एक शक और शुबहात हैं। वे डरे हुए हैं कि अब यह कौनसा किस्सा शुरू हुआ है? इसलिए मैं आप से कहना चाहता हूं कि इसमें प्रिवेंशन के अलावा "कॉज" भी होना चाहिए कि यह होता क्यों है?

अभी कहा गया कि उनको जेहादी मत कहिए। यकीनी तौर पर वे बावले और दीवाने लोग हैं, लेकिन हर एक्शन के पीछे कुछ होता है। आपको मालूम है कि मुंबई में जो कुछ हुआ था, उस पर श्रीकृष्णा रिपोर्ट आई और आज वे सिपाही जो मुजरिम थे, प्रमोट होकर उन्हीं मुसलमानों के पीछे खड़े हैं। क्या करेंगे आप, किससे पूछेंगे? गुजरात में जो कुछ हुआ, वे सब मुजरिम पुलिस वाले आज भी खड़े हुए हैं। इनकी तरफ भी थोड़ा शुबहा कीजिए, इनकी तरफ भी ध्यान दीजिए। मैं इस हाउस के जरिए कहना चाहता हूं कि आप कोशिश करिए और सद्भावना पैदा करिए। आप इस मुल्क में गांधी के ख्वाब को पूरा करवाइए। जिन लोगों ने हम से गांधी को छीन लिया, आज वे गांधी की तहरीक को भी यहां से उठाना चाहते हैं, यहां से ले जाना चाहते हैं।

कहा यह जा रहा है कि पाकिस्तान यह कर रहा है। हकीकत यह है और मैं आप को अपनी जिंदगी के वाकयात बताना चाहता हूं। मैं 14 साल हिंदुस्तान के बाहर रहा और पाकिस्तान के बहुत से लोग, अजीज मुझ से मिलते रहे। उन्होंने कभी accept नहीं किया कि हिंदुस्तान एक सेकुलर मुल्क बनकर उठ सकता है क्योंकि उनको, उनकी हुकूमत को यह साबित करना मुश्किल हो गया है कि उन्होंने पाकिस्तान क्यों बनाया, हिंदुस्तान को क्यों तोड़ा? यह वह मुल्क है जहां मुसलमान सदर भी बनता है, चीफ ऑफ स्टाफ भी बनता है, चीफ जस्टिस भी बनता है और बराबर के हकूक लेकर आप के साथ बैठता भी है। पाकिस्तान का एक तबका — आई0एस0आई0 कहिए या दीवानों का एक गिरोह कहिए, उसने हिंदुस्तान को सेकुलर मानने से इंकार कर दिया। ये वे लोग हैं जो अपने यहां कैंप चलाते हैं और हमारे मुल्क की तरफ शक व शुबहा की निगाह से देखते हैं। एक तबका यहां भी है और वह तबका जिस ने गांधी को हम से छीना, वह तबका आज भी हिंदुस्तान को सेकुलर बनाने के लिए तैयार नहीं है। वह आज भी यह समझता है कि हिंदुस्तान सेकुलर मुल्क कैसे बन गया, लेकिन यहां की कौम, यहां की आवाम अजीम है। उसने उन लोगों को 5-10 परसेंट से आगे बढ़ने नहीं दिया। यह सेकुलर मुल्क बना और बनता रहेगा।

मैं सिर्फ यह कहना चाहता हूं होम मिनिस्टर साहब से कि मुझे उनकी अकाउंटेबिलिटी पर, उनकी नीयत पर शुबहा नहीं है। मुझे यूपीए सरकार पर कोई शुबा नहीं है, लेकिन मैं इनसे जरूर पूछना चाहता हूं। मेरे पास बीसियों केसेस हैं, वक्त की तंगी है, मैं बयान नहीं कर सकता हूँ। लोगों की तीन-तीन साल से, दो-दो साल से जमानतें तो क्या, अदालतें सुनवाई नहीं कर रही हैं। आज उनके घरों पर क्या हालत है, यह आपको पता नहीं है, मुझे पता है।

सर, यहां अन्तुले साहब के बारे में कहा गया कि अन्तुले साहब ने ऐसा बयान दिया है। मैं ज्यादा प्रोसीजर नहीं जानता हूँ, लेकिन मैं आपसे हक बात कहना चाहता हूँ और हक बात न कहूं, तो गलतबयानी होगी। मेरी कौम के ज्यादातर लोग वही सोच रहे हैं, जो कल अन्तुले साहब ने कहा है। उसकी वजह यह है कि उसी दिन रात को 11 बजे मैंने टीवी पर देखा कि शहीद हेमंत करकरे की मौत के बाद यह कहा गया कि कुछ लोगों ने खुशियां मनाईं। इसकी इन्क्वायरि क्यों नहीं होती है? टीवी के ऊपर यह कहा गया है। अब या तो उस टीवी के चैनल को बंद कर दिया जाए, या उसकी क्लिपिंग बुलाकर पूछा जाए कि कौन लोग खुश हुए थे। आज जो लोग यह कहते हैं कि इतना सख्त कानून लाएं कि इस कौम को दबा दीजिए, नाम नहीं लेते हैं, लेकिन होता यह है कि जब हेमंत करकरे ने तस्वीर का दूसरा रुख दिखाया, तो उचक पड़े, चीख-पुकार मच गई और उस शहीद के ऊपर ऐसे-ऐसे इल्जाम लगाए गए, लेकिन शाबाश वह हिंदुस्तान पर कुर्बान हो गया और जिन लोगों ने उस पर इल्जाम लगाए थे, उनको बौना बनाकर छोड़ दिया। यही हिंदुस्तान की कुव्वत है। मैं यह चाहूंगा कि जो बिल आप ला रहे हैं, इसको किसी सूरत से ऐसा न होने दीजिए, जो हमने टाडा में देखा, जो हमने पोटा में देखा और कहीं ऐसा न हो कि कहीं फिर एलिनिएशन शुरू हो जाए, फिर शक-ओ-शुबा की जिंदगियां शुरू हो जाएं। तो ऐसी बंदिशें आपने कोशिश की है, इस पर नियत भी जरूरी है।

जहां तक आपकी दूसरी एजेन्सी बनाने की कोशिश है, मैं आपसे इस हाउस के जरिए गुजारिश करूंगा कि उसको बेहतर बनाने के लिए माइनोरिटी के रिप्रजेंटेशन को बढ़ाइए। ऐसा न हो, जैसे आपके पास जितनी भी एजेन्सीज हैं, सीबीआई तीन अदद मुसलमान, दूसरी जैसे रॉ है, उसमें कोई भी नहीं और आपकी सिक्योरिटी की जो तीसरी है, अफसोस है उसमें एक भी मुसलमान नहीं है। तो कम से कम जब आप जो यह नेशनल एजेन्सी बना रहे हैं, तो इंदिरा गांधी का जो ख्वाब था, जिसको सोनिया गांधी ने भी कहा है और जिनको मैंने अखबारों में भी पढ़ा है कि दस से पन्द्रह परसेंट की नुमायंदगी होगी, मैं इस हाउस के जरिए आपसे दरखास्त करता हूँ कि इसमें इसकी तवज्जह की जाए कि जो इसका शेप हो, उसमें सब कौमें और सब बिरादरियां आएं, जिससे इसकी एफिसिएंसी और इसकी अहमियत का अंदाजा हो।

मैं बहुत मशकूर और शुक्रगुजार हूँ, वक्त आपका ले लिया, लेकिन बहुत-बहुत शुक्रिया आपका, जनाब।

جناب محمد ادیب (اترپردیش): جناب ڈپٹی چئیرمین صاحب، بہت بہت شکریہ۔ آج یہ دو بل لائے گئے ہیں جس میں ایک کو انلاء فل ایکٹوٹی پریوینشن بل کہا گیا ہے۔ میں نے بہت کوشش کی، دیکھوں اس بل میں پریوینشن کہاں ہے؟ مجھے پریوینشن تو سمجھ میں نہیں آیا، یہ سمجھ میں آیا کہ "پوٹا"، "ٹاڈا" اور اس کے بعد ایک اور قانون، اور یہ قانون اس لئے لایا گیا کہ مجرم پکڑا جائے۔ پریوینشن کی شکل آپ نے دوسرے بل میں ضرور دی ہے، لیکن میں یہ سمجھتا ہوں کہ شاید 4 سال سے یو.پی.اے. کے ساتھ کام کرتے کرتے اور یہ سمجھاتے ہوئے کہ "پوٹا" کے قانون میں مائنارٹی کے ساتھ زیادتی اور ظلم ہو رہا ہے، لیکن ممبئی کے واقعے کے بعد کانگریس شاید پھر بی.جے.پی. کے دباؤ میں آ گئی اور یہاں بحث اس بات پر شروع ہوئی کہ تمہارا "پوٹا" ہلکا تھا اور میرا قانون زیادہ مضبوط ہے۔ میں آپ کے حق کی بات کہنا چاہتا ہوں کہ ہر قانون کے ساتھ نیت اور اکاؤنٹیبلٹی ہونی چاہئے کہ اس کی نیت کیا ہے؟ نیت یہ ہے کہ میں آج پارلیمنٹ میں اس لئے بیٹھا ہوں کیوں کہ 2001 سے لے کر آج تک "پوٹا" کے کیسیز لڑ رہا ہوں۔ جو لوگ 22 سال کی عمر میں جیل گئے تھے، آج وہ 27 اور 29 سال کے ہو چکے ہیں اور ان کی ضمانتیں نہیں ہوئی ہیں۔ اس ہاؤس کے باہر آج میری قوم میں ایک شک و شبہات ہیں۔ وہ ڈرے ہوئے ہیں کہ اب یہ کون سا قصہ شروع ہوا ہے؟ اس لئے میں آپ سے کہنا چاہتا ہوں کہ اس میں پریوینشن کے علاوہ "کاز" بھی ہونا چاہئے کہ یہ ہوتا کیوں ہے.؟

ابھی کہا گیا کہ ان کو جہادی مت کہئے۔ یقینی طور پر وہ باؤلے اور دیوانے لوگ ہیں، لیکن ہر ایکشن کے پیچھے کچھ ہوتا ہے۔ آپ کو معلوم ہے کہ ممبئی میں جو کچھ ہوا تھا، اس پر شری کرشنا رپورٹ آئی اور آج وہ سپاہی جو مجرم تھے، پرموٹ ہوکر انہیں مسلمانوں کے پیچھے کھڑے ہیں۔ کیا کریں گے آپ، کس سے پوچھیں گے؟ گجرات میں جو کچھ ہوا، وہ سب مجرم پولس والے آج بھی کھڑے ہوئے ہیں۔ ان کی طرف بھی تھوڑا شبہ کیجئے، ان کی طرف بھی دھیان دیجئے۔ میں اس ہاؤس کے ذریعے کہنا چاہتا ہوں کہ آپ کوشش کرنے اور سدبھاؤنا پیدا کرنے۔ آپ اس ملک میں گاندھی جی کے خواب کو پورا کروائیے۔ جن لوگوں نے ہم سے گاندھی جی کو چھین لیا، آج وہ گاندھی جی کی تحریک کو بھی یہاں سے اٹھانا چاہتے ہیں، وہاں سے لے جانا چاہتے ہیں۔

Transliteration in Urdu Script.

کہا یہ جا رہا ہے کہ پاکستان یہ کر رہا ہے۔ حقیقت یہ ہے اور میں آپ کو اپنی زندگی کے واقعات بتانا چاہتا ہوں۔ میں 14 سال ہندوستان کے باہر رہا اور پاکستان کے بہت سے لوگ، عزیز مجھ سے ملتے رہے۔ انہوں نے کبھی ایکسیپٹ نہیں کیا کہ ہندوستان ایک سیکولر ملک بن کر اٹھ سکتا ہے کیوں کہ ان کو، ان کی حکومت کو یہ ثابت کرنا مشکل ہو گیا ہے کہ انہوں نے پاکستان کو کیوں بنایا، ہندوستان کو کیوں توڑا؟ یہ وہ ملک ہے جہاں مسلمان صدر بھی بنتا ہے، چیف آف اسٹاف بھی بنتا ہے، چیف جسٹس بھی بنتا ہے اور برابر کے حقوق لے کر آپ کے ساتھ بیٹھتا بھی ہے۔ پاکستان کا ایک طبقہ آئی۔ایس۔آئی۔ کہئے یا دیوانوں کا ایک گروہ کہئے، اس نے ہندوستان کو سیکولر ماننے سے انکار کر دیا۔ یہ وہ لوگ ہیں جو اپنے یہاں کیمپ چلاتے ہیں اور ہمارے ملک کی طرف شک و شبہ کی نگاہ سے دیکھتے ہیں۔ ایک طبقہ یہاں بھی ہے اور وہ طبقہ جس نے گاندھی جی کو ہم سے چھینا، وہ طبقہ آج بھی ہندوستان کو سیکولر بنانے کے لئے تیار نہیں ہے۔ وہ آج بھی وہ سمجھتا ہے ہے کہ ہندوستان سیکولر ملک کیسے بن گیا، لیکن یہاں کی قوم، یہاں کی عوام عظیم ہے۔ اس نے ان لوگوں کو 5-10 پرسینٹ سے آگے بڑھنے نہیں دیا۔ یہ سیکولر ملک بنا اور بنتا رہے گا۔

میں صرف یہ کہنا چاہتا ہوں ہوم منسٹر صاحب سے کہ مجھے ان کی اکاؤنٹبلٹی پر، ان کی نیت پر شبہ نہیں ہے۔ مجھے یو۔پی۔اے۔ سرکار پر کوئی شبہ نہیں ہے، لیکن میں ان سے ضرور پوچھنا چاہتا ہوں۔ میرے پاس بیسیوں کیسیز ہیں، وقت کی تنگی ہے، میں بیان نہیں کر سکتا ہوں۔ لوگوں کی تین تین سال سے، دو۔دو سال سے ضمانتیں تو کیا، عدالتیں سنوائی نہیں کر رہی ہیں۔ آج ان کے گھروں پر کیا حالت ہے، یہ آپ کو پتہ نہیں ہے، مجھے پتہ ہے۔

سر، یہاں انتولے صاحب کے بارے میں کہا گیا کہ انتولے صاحب نے ایسا بیان دیا ہے۔ میں زیادہ پروسیجر نہیں جانتا ہوں، لیکن میں آپ سے حق بات کہنا چاہتا ہوں اور حق بات نہ کہوں، تو غلط بیانی ہوگی۔ میری قوم کے زیادہ تر لوگ وہی سوچ رہے ہیں، جو کل انتولے صاحب نے کہا ہے۔ اس کی وجہ یہ ہے کہ اسی دن رات کو 11 بجے میں نے ٹی۔وی۔ پر دیکھا کہ شہید ہیمنت کرکرے کی موت کے بعد یہ کہا گیا کہ کچھ لوگوں نے

خوشیاں منائیں۔ اس کی انکوائری کیوں نہیں ہوتی ہے؟ ٹی۔وی۔ کے اوپر یہ کہا گیا ہے۔ اب یا تو اس ٹی۔وی۔ کے چینل کو بند کر دیا جائے، یا اس کی کلپنگ بلا کر پوچھا جائے کہ کون لوگ خوش ہوئے تھے۔ آج جو لوگ یہ کہتے ہیں کہ اتنا سخت قانون لائیں کہ اس قوم کو دبا دیجئے، نام نہیں لیتے ہیں، لیکن ہوتایہ ہے کہ جب ہیمنت کرکرے نے تصویر کا دوسرا رخ دکھایا، تو اچک پڑے، چیخ پکار مچ گئی اور اس شہید کے اوپر ایسے ایسے الزام لگائے گئے، لیکن شاباش وہ ہندوستان پر قربان ہو گیا اور جن لوگوں نے اس پر الزام لگائے تھے، ان کو بونا بنا کر چھوڑ دیا۔ یہی ہندوستان کی قوت ہے۔ میں یہ چاہوں گا کہ جو بل آپ لا رہے ہیں، اس کو کسی صورت سے ایسا نہ ہونے دیجئے، جو ہم نے ٹاڈا میں دیکھا، جو ہم نے پوٹا میں دیکھا اور کہیں ایسا نہ ہو کہ کہیں پھر ایلینیشن شروع ہو جائے، پھر شک و شبہ کی زندگیاں شروع ہو جائیں۔ تو ایسی بندشیں آپ نے کوشش کی ہے، اس پر نیت بھی ضروری ہے۔

جہاں تک آپ کی دوسری ایجنسی بنانے کی کوشش ہے، میں آپ سے اس ہاؤس کے ذریعے گزارش کروں گا کہ اس کو بہتر بنانے کے لئے مائنارٹی کے ریپریزینٹیشن کو بڑھائیے۔ ایسا نہ ہو، جیسے آپ کے پاس جتنی بھی ایجنسی ہیں، سی۔بی۔آئی۔ تین عدد مسلمان، دوسری جیسے راء ہے، اس میں کوئی بھی نہیں اور آپ کی سیکورٹی کی جو تیسری ہے، افسوس ہے اس میں ایک بھی مسلمان نہیں ہے۔ تو کم سے کم جب آپ جو یہ نیشنل ایجنسی بنا رہے ہیں، تو اندرا گاندھی کا جو خواب تھا، جس کو سونیا گاندھی جی نے بھی کہا ہے اور جن کو میں نے اخباروں میں بھی پڑھا ہے کہ دس سے پندرہ پرسینٹ کی نمائندگی ہوگی، میں اس ہاؤس کے ذریعے آپ سے درخواست کرتا ہوں کہ اس میں اس کی توجہ کی جائے کہ جو اس کا شیپ ہو، اس میں سب قومیں اور سب برادریاں آئیں، جس سے اس کی ایفی شئنسی اور اسکی اہمیت کا اندازہ ہو۔

میں بہت مشکور اور شکر گزار ہوں، وقت آپ کا لے لیا، لیکن بہت بہت شکریہ آپ کا، جناب۔

"ختم شد"

SHRI SHARAD ANANTRAO JOSHI (Maharashtra): Thank you, Mr. Deputy Chairman, Sir, for allowing me to take part in this debate which was, for a long time, a battle between the barristers and, later on, between the luminaries of law. I am only a peasant activist, but my special qualifications for taking part in this debate are that as early as in 1986, I was detained under the then National Security Act which was the predecessor of both TADA and POTA! And a former Chief Minister, who is now a member of the Cabinet, had, actually, levelled a charge of waging war against the lawfully established State for the mere fact that I reclaimed remunerative prices for cotton for the farmers of India. The time is changed, Sir, and now, the same people are talking in an entirely different language. I am, of course, supporting both the NIA and the UAPA Bills because the Government or the ruling party thinks that we need to give a show of solidarity and the Opposition parties have also agreed with that. I support the NIA, and also the UAPA. But my inner voice and my conscience howls out that what I am doing is entirely wrong, that what the Government should have prepared was, as Hon. Shri Rajeev Chandrasekhar said, a very strong anti-terrorism or counter-terrorism Act. If you think that the POTA was mistaken because it had a communal bias, you could correct that communal bias. But, you can't abdicate the responsibility of establishing law and order in the country. Sir, this scene we have seen earlier in the country; in 1962, at the end of one bout of *Bhai-bhaism*, in 'Hindi-Chini *bhai-bhai*', we, the nation faced a humiliation. At that time, the Defence Minister had literally to be shoved out and a new Defence Minister had to be called from Maharashtra — we had a very gentleman Home Minister who resigned on his own. This time our old Home Minister had to go back to Maharashtra. Now, we have got a new Home Minister, who was the Finance Minister, whose possible qualifications are that he comes from a region with a geographical proximity with terrorist outfits like the LTTE.

I would like to make some bullet points because of shortage of time. As regards the question of human rights, even the Prime Minister said that there had to be some kind of an exception made to the rule of human rights. I would like to take the position that anybody who takes arms against a lawfully established State abdicates his right to any claim to human rights and he can, at the best, claim to be treated under the Geneva Convention applicable only to prisoners of war. Therefore, all talks of human rights, etc., are irrelevant, as far as dealing with terrorists is concerned.

I would like to make one more point. We have the new ULAPA which is certainly an improvement of the POTA, in the sense that POTA did not have the advantage of 26th November. The drafters of this Bill definitely have the advantage and, therefore, they have plagiarised from POTA, but expanded the definition to include some of the more recent experiences. It still remains essentially like a general paper preparing for the battles fought in the past. We are still trying to fight the battle with terrorism which has already happened. We are not looking forward to what is going to happen and the Bill does not provide for it at all. I don't want to look like a prophet. But I am warning the entire House that 20th January when the new President takes over charge in the United States and if he tries anything like withdrawal of forces from Iraq and Afghanistan, then the global terrorists in a frenzy of victory are going to launch a massive campaign of terrorism all throughout the world, and we are still not prepared at all. We don't know what kind of shape it will take. Therefore, I would say that this Bill is good as far as it goes. It does not go much forward; it looks backward; it does not look forward. I hope the new

Home Minister will prepare India to face the calamities that I expect will happen soon after the 20th January, that is just about 20 days' time. Thank you.

श्री राजनीति प्रसाद (बिहार): धन्यवाद सर। मैं सबसे पहले हमारे जो नये गृह मंत्री हैं, उनको धन्यवाद देना चाहूँगा कि इन्होंने एक अच्छा बिल लाया है, जिसके समर्थन में मैं खड़ा हुआ हूँ। मैं सदन के माध्यम से एक बात कहना चाहूँगा। इसके पहले भी सीबीआई थी और सीबीआई ने आदरणीय राजीव गांधी, जो नहीं रहे, उनका केस लड़ा, श्रीमती इंदिरा गांधी, जो शहीद हुई, उनका केस लड़ा और एंटी-हाइजैक का भी केस लड़ा। लेकिन सर, उसमें भी स्टेट्स को पावर दी गई थी कि आप सीबीआई के लिए रेकमेंड कर सकते हैं। लेकिन यहाँ जो कानून बना है, उसमें स्टेट्स को एसोसिएट करने की भी पावर नहीं है। वे केवल Recommending Authorities हैं। अगर ऐसा कोई केस होता है तो वे Recommending Authorities हैं। मैं आदरपूर्वक यह कहना चाहूँगा कि यह जो एजेंसी आप बना रहे हैं, क्या उसमें सारे स्टेट्स के पावर को खत्म करने जा रहे हैं? जो हमारी एजेंसी है, इसी की लड़ाई हमने भी लड़ी थी। जब वहाँ लालू प्रसाद जी की सरकार थी तो हम लोगों ने कहा था कि हमारी जो एजेंसी है, हमारी जो पुलिस है, उससे काम लीजिए, हम उससे काम करायेंगे। लेकिन कोर्ट के आदेश से हम लोगों पर सीबीआई की इन्वेस्टिगेशन शुरू हुई और कोर्ट का आर्डर हुआ कि केस सीबीआई करेगी। सर, यह जो पावर के लिए लड़ाई होती है — हमारे कितने राज्य हैं और सभी राज्यों में उनकी अपनी पावर होती है। इसलिए मैं यह कहना चाहूंगा कि स्टेट गवर्नमेंट की एजेंसी भी काम करनी चाहिए।

दूसरी बात मैं यह कहना चाहता हूं कि 10 आदमी हमारे देश में घुस आए, जिनमें से एक आदमी पकड़ा गया और 9 आदमी मारे गए, अब जो मर गए उनके खिलाफ आपका कोई कानून, पोटा कानून या किसी नेशनल एजेंसी का कोई कानून नहीं चलने वाला है, क्योंकि वे तो मर गए, एक आदमी बचा है और आपको लगता है कि हमको एजेंसी बनानी पड़ेगी। उसके खिलाफ ऐविडेंस आएंगे, इसलिए आपको लगता है कि हमको कानून बनाना चाहिए। लेकिन, सर, मुम्बई ब्लास्ट हुआ, आपने कानून नहीं बनाया, दिल्ली ब्लास्ट हुआ, आपने कानून नहीं बनाया, अब आप एक कानून बनाने जा रहे हैं, जिसमें स्टेट को कोई पावर नहीं है, बल्कि जो FIR लिखाएगा 154 में, वह स्टेट गवर्नमेंट को देगा, स्टेट गवर्नमेंट फॉरवर्ड कर देगी। इसलिए मैं यह कहना चाहूंगा कि राज्यों को भी इसमें एसोसिएट करना चाहिए। इनका इस बारे में अमेंडमेंट है, हालांकि मैं इनके अमेंडमेंट का मैं समर्थन नहीं करुंगा, उसको वोट नहीं दूंगा, वह एक अलग बात है, लेकिन राज्यों को भी इसमें एसोसिएट होना चाहिए। अगर ऐसा draconian law बनाएंगे, ऐसा कड़ा कानून बनाएंगे और राज्यों की शक्ति खत्म हो जाएगी तो फिर हमारा फेडरल स्ट्रक्चर कैसे रहेगा।

एक बात मैं और कहना चाहूंगा कि यह कानून बना है, एक और चीज हम लोगों को इन्वेस्टिगेट करनी चाहिए कि ये 10 आदमी पूरे बोरे के बोरे सामान के लेकर, राइफल, आरडीएक्स और AK-47 लेकर होटल में कैसे घुस गए, कैसे आ गए। इसकी भी इन्वेस्टिगेशन होनी चाहिए और इसमें जो लोग भी इनके मददगार हैं, उनके खिलाफ भी इसी एजेंसी से काम होना चाहिए। यह मेरा निवेदन है गृह मंत्री जी से, क्योंकि इसको छोड़ना नहीं है, यह राष्ट्र का सवाल है, नेशन का सवाल है कि कोई 10 दिन, 15 दिन या एक महीने से पूरा सामान लेकर यहां आ रहे हैं। इसलिए हम लोग यह चाहेंगे कि इसकी भी इन्वेस्टिगेशन होनी चाहिए।

आपने मुझे बोलने का समय दिया, इसके लिए धन्यवाद।

डा0 ऐजाज़ अली (बिहार) : सर, जिस तरह से हम लोग global terrorism से परेशान हैं, उसी तरह से हम लोग domestic terrorism से भी परेशान हैं। पिछले तीन-चार साल से पूरे मुल्क में जहां-तहां बम-धमाके होते रहे और उनमें एक खास लोगों को निशाना बनाया गया और पूरे मुल्क में उसके तार को जोड़कर दिखा दिया गया। इसी बीच एक अफसर ने इन्वेस्टिगेशन के जरिए कुछ राज़ फाश किया। वह सही है या गलत है, यह फैसला तो अदालत करेगी, लेकिन वे अफसर थे करकरे साहब या कामटे साहब या सालस्कर साहब थे। वे अफसर थे, वे न तो मेरे मज़हब के मानने वाले थे, न मेरे रिश्तेदार थे ना मेरी जाति के थे, वे एक ईमानदार और साहसी अफसर थे और अपनी डयूटी निभाने में वे इधर-उधर नहीं देखते थे। मुम्बई अटैक में उनकी मौत हो गई।

श्री वी0 हनुमंत राव: उस एक कॉंस्टेबल का नाम कोई नहीं ले रहे?

डा0 ऐजाज़ अली: सब लोग नाम ले रहे हैं, सारी दुनिया जान गई है। मेरा यह कहना है कि मुसलमानों के ज़हन में यह बात गूंज रही है कि कहीं वे आतंकवाद के बजाए किसी साजिश के शिकार तो नहीं हो गए। इसलिए सरकार को चाहिए कि यह जो कन्फ्यूज़न है, वह इसको दूर करे। कल अन्तुले साहब ने एक बयान दिया, मैंने उनका बयान सुना नहीं, पेपरों में देखा। उनके बयान पर बहुत बवाल हुआ, यहां तक कि कांग्रेस पार्टी ने भी उससे पल्ला झाड़ा। अगर उनकी बात को मानते हुए, वे मुसलमानों के ज़हन की बात बोल रहे थे, अगर उनकी बात को मानते हुए सिर्फ इतना ही इन्वेस्टिगेशन हो जाए कि जिस वक्त उनको कॉल आई कि आतंकवादी हमला हो गया है, वे क्या कर रहे थे। किसने उनको call दिया था, वह एक सरबराह थे, हर जगह उनको जाना जरूरी नहीं था, उनको डील करना था कि तुम फलां जगह जाओ, तुम फलां जगह जाओ और तुम फलां जगह जाओ, लेकिन वे कौन-से लोग थे, जिन्होंने उनको provoke किया कि वे तीनों अफसर एक ही गाड़ी में सवार हुए और ऐसी जगह पहुंच गए, जहां उनको शायद नहीं जाना चाहिए था या नहीं जाने का प्रोग्राम था (समय की घंटी), लेकिन वे गए। तीसरी चीज यह है कि उनको पहले से कुछ धमकियां मिल रही थी, तो वे कौन लोग थे, जिनसे उनको धमकियां मिल रही थी। ये सारी बातें confusion पैदा करती है। उनके post-mortem की रिपोर्ट कहां है, उनके forensic report कहां हैं। महाराष्ट्र पुलिस manual के हिसाब से उनकी magisterial enquiry होनी चाहिए, वह हुई या नहीं हुई, अगर हुई, तो उसकी रिपोर्ट कहां है। उनकी पत्नी, जिन्होंने सारे सदमे को बर्दाश्त किया, उनसे पूछा जाए कि क्या कुछ बात थी, क्योंकि हर बीवी अपने शौहर की हमराज होती है, वह सारी बातें जानती है कि उसके साथ क्या हो रहा है (समय की घंटी)। उनसे हिफाजत के साथ पूछा जाए कि क्या हुआ।

श्री उपसभापति : आप conclude कीजिए।

डा. ऐजाज अली : महोदय, इस चीज को पूछ कर clear कर लिया जाए, ताकि एक बहुत बड़ी community के बीच जो बदगुमानी हुई है, वह दूर हो जाए। शुक्रिया।

ڈاکٹر اعجاز علی (بہار): سر، جس طرح سے ہم لوگ global terrorism سے پریشان ہیں، اسی طرح سے ہم لوگ domestic terrorism سے بھی پریشان ہیں۔ پچھلے تین چار سال سے پورے ملک میں جہاں تہاں بم دھماکے ہوتے رہے اور ان میں ایک خاص لوگوں کو نشانہ بنایا گیا اور پورے ملک میں اس کے تار کو جوڑ کر دکھا دیا گیا۔ اسی بیچ ایک افسر نے انویسٹی گیشن کے ذریعے کچھ راز فاش کیا۔ وہ صحیح ہے یا غلط ہے؟ یہ فیصلہ تو عدالت کرے گی، لیکن وہ افسر تھے کرکرے صاحب یا آمٹے صاحب یا سالسکر صاحب تھے۔ وہ افسر تھے، وہ نہ تو میرے مذہب کے ماننے والے تھے، نہ میرے رشتہ دار تھے یا میری جاتی کے تھے، وہ ایک ایماندار اور سابسی افسر تھے اور اپنی ڈیوٹی نبھانے میں وہ ادھر ادھر نہیں دیکھتے تھے۔ ممبئی اٹیک میں ان کی موت ہو گئی۔

شری وی. ہنومنت راؤ: اس ایک کانسٹبل کا کوئی نام نہیں لے رہا ہے؟

ڈاکٹر اعجاز علی: سب لوگ نام لے رہے ہیں، ساری دنیا جان گئی ہے۔ میرا یہ کہنا ہے کہ مسلمانوں کے ذہن میں یہ بات گونج رہی ہے کہ کہیں وہ آتنک واد کے بجائے کسی سازش کے شکار تو نہیں ہو گئے ہیں۔ اس لئے سرکار کو چاہئے کہ یہ جو

Transliteration in Urdu Script.

श्री अमर सिंह: महोदय, मैं ज्यादा समय नहीं लूंगा, बस एक मिनट बोल रहा हूँ। मैं इस बिल पर बोल चुका हूँ और मैंने इस बिल पर समर्थन देने की बात भी कही है, लेकिन हमारे वामपंथी साथियों से और कई लोगों से बात हुई, वे लोग एक clause पर विशेष आपत्ति कर रहे हैं। लोग कह रहे हैं कि इस पूरे मामले में जो भी व्यक्ति किसी चीज के साथ पकड़ा जाएगा, तो उसको तत्काल guilty कह दिया जाएगा। उसको अपने को निर्दोष साबित करने का दायित्व उसके ऊपर स्वयं होगा। मुझे इस आपत्ति में कुछ दम दिखता है। हालांकि मैं वोट गवर्नमेंट के साथ दूंगा, लेकिन मैं चाहूंगा कि वामपंथी साथियों ने जो यह आपत्ति उठाई है, इसके ऊपर माननीय गृह मंत्री जी सहानुभूतिपूर्वक विचार करें और इसको देखें, क्योंकि यह एक जायज मांग है कि पकड़ा जाने वाला व्यक्ति को तुरंत guilty कह दिया जाएगा और उसे ही यह prove करना होगा कि वह निर्दोष है। आज मैंने अपने वक्तव्य में भी कहा है कि ऐसी घटनाएं हुई हैं, जिसमें साजिशन लोगों को फंसाया गया है। इसका दुरुपयोग minorities के खिलाफ भी होने की आशंका है। मैं इसको recall पर रखना चाहता हूँ।

SHRI P. CHIDAMBARAM: Mr. Deputy Chairman, Sir, I am grateful to the hon. Members who have participated in this discussion. Everybody has supported the idea behind the two Bills. On the UPA side, it is whole-hearted and an unconditional support. The BJP has given critical support. The Left has given qualified support. My friend, Shri Surinder, has given passionate support to the Bill. So, in a sense, everybody supports the idea, although there are reservations about one or two aspects of the two Bills. As I said, I respect every reservation. I will try to answer them, though my friends, Shri Kapil Sibal, Shri Ashwani Kumar, Dr. Abhishek Singhvi and others, have answered these objections. I will also try to answer these objections to the best of my ability. But notwithstanding reservations and our answers to them, at the end of the day, my appeal is, let us vote these two Bills unanimously so that a clear message goes to the people of India that Parliament of India is vigilant and will uphold the sovereignty, liberty and security of the people of India. At the end of the day, we should not appear to be a divided House. We should not speak in different voices. We have exchanged our views. We have understood each other. But at the end of the day, we must vote these two Bills unanimously.

Sir, let me once again clarify a few aspects which, apparently, bother people's minds, including the last remark made by Shri Amar Singh. The Indian jurisprudence is based on the fundamental principle that every man is presumed innocent until proved guilty. However heinous the crime, that principle is an unalterable principle. And, I would refer presently to what the Chief Justice of India said a few days ago. When there is a terrorist crime and terrorists, or, their accomplices and abettors of terrorists, are apprehended, the people expect the Government to be able to investigate the offences efficiently and quickly, bring the culprits before a court and punish them swiftly. If the process of investigation, trial and punishment drags for 10 or 12 or 13 years, and at the end, some are punished, many are not punished, and even the punishment does not turn out to be a deterrent punishment, the people will not have faith in the criminal justice system to deliver justice, nor will they have faith in the Government's ability to protect the liberty and the security of the people. So, the three main objectives of the two Bills

9.00 P.M.

are, speedy and efficient investigation, fair and speedy trial and deterrent punishment. If we keep these three objectives in mind, these two Bills fall in place. But, before I explain the contents of the Bills, I wish to say one other thing. TADA, POTA, MCOCA in a State, UAPA here, these are not preventive laws. These are punitive laws. These laws spring into action only after the crime is committed or when an attempt is made to commit a crime or in one or two cases, preparation is made to commit a crime. The *jehadi* terrorist is not deterred by these laws. He is ready to die; he is prepared to kill. If we believe that POTA will deter a *jehadi* terrorist, we are living in a make-believe world. No punitive law deters the terrorists. The punitive law is helpful only to punish the terrorists. So, I don't agree with the theory put forward by one or two hon. Members that a strong law will deter the terrorists. Strong law deters ordinary people from straying into crime, or, even habitual criminals from committing blatant crimes. But, these laws don't deter a *jehadi* terrorist. He is prepared to die. This 20-year old boy, not even a full-blown man, who has been apprehended in Mumbai came here prepared to die. And, according to a statement, he was prepared to die because somebody promised him one-and-a-half lakh Pakistani rupees to take care of his family. Therefore, Sir, do these two Bills meet these three objectives? First, speedy investigation. The NIA, I respectfully submit, meets the objective. We set up an Agency. We confine its jurisdiction only to eight Acts, no more. Eight Acts and no more. It is not like the CBI, it is not like the FBI. It is confined to eight Acts, and the common thread that runs through the eight Acts is terror and terrorism. These are eight Acts. We will keep it as a lean and a fit agency. We will staff it by young energetic officers who are well-versed in investigation, who have a proven track record in investigation, and we will try the case in a Special Court. The Chief Justice will nominate the Special Judge. The presiding officer of the Special Court will continue with the trial, notwithstanding that he reaches the age of superannuation, so that he will complete the trial of the case by a date to be specified, if he crosses the age of superannuation. So, the National Investigation Agency Bill, in my view, meets the objective of a speedy investigation of the case. Now, are we encroaching upon the States' powers? I respectfully submit, we are not. The Act has been carefully drafted. What we say is, the FIR will be filed in a police station; it will be transmitted to the State Government, who shall forthwith send it to the Central Government; the Central Government, may, having regard to the gravity of the offence and other relevant factors, direct that the NIA should investigate the case. All other cases will remain with the State agencies. I have no plans to take on hundreds of cases. My desire is that there should be no cases of terrorism to be investigated. If there are cases of terrorism and terrorist crimes to be investigated, it is not my intention to take on everything under the NIA. We will only take the gravest cases which have inter-State or international ramifications. The rest will be left to the State agencies.

When we take on a case, we expect the State agencies to cooperate with the NIA. The NIA, in turn, can ask the State agencies to associate with the investigation. The NIA can also, after some time, having regard to the gravity, return the case to the State agencies saying, 'This is not necessary for me to investigate, you please continue the investigation.' So, this is not encroaching upon the States' autonomy; it is respecting the States' autonomy and, only to the extent necessary, the NIA takes over. But, I believe, more often than not, the NIA will ask the State agency to associate itself. The problem with the amendment proposed by a section in this House to divide the Schedule into two is, if you put the Unlawful Activities Act in the Second Schedule and mandate association of the State agency, there could be cases—let me not talk about the past—where the local police is involved with the terrorist crime and there is a cover up, and, therefore, it might hamper the investigation rather than assist the investigation. There have been cases in the past. We know those cases; I shall not name them for fear of provoking another debate. There could be cases where the local police could be involved in a cover up of the terrorist act.

Therefore, I think, what we have done is the correct thing. I think, the structure that I have explained is the correct structure, and I request the hon. Members to kindly support the NIA Bill. Sir, all other provisions of this Bill are normal standard provisions. An appeal will lie to a division bench, and the appeal should be disposed of within three months. There is no other unusual provision in this Bill. Nobody has brought any unusual provisions. Therefore, the NIA Bill deserves universal support. *...(Interruptions)...* Please, I am not yielding. Let me complete and at the end I will answer all the questions.

As far as the UAPA is concerned, as I said, there is a section which believes that POTA must be brought back. Another section, including within the UPA, strongly believes that POTA cannot be brought back under any circumstances. Someone pointed out that I was the author of TADA. I was the author of TADA too, I agree. But, I was also part of the Government which repealed TADA. I was also part of the Government which repealed TADA because we found that TADA would be misused. We did not renew TADA. POTA was brought through a Joint Session of Parliament, not by a great consensus. POTA was brought by a razor-thin majority in a Joint Session of Parliament. The new Government decided to repeal POTA. Now, we are not going into the wisdom of bringing the law or the wisdom of repealing the law. In view of the very strong opinions on the subject, we decided that the best course is not to bring back POTA in any form. So, we have the UAPA. We took to UAPA, we worked on the UAPA, and we have added provisions which, I believe, strengthen the trial and the prosecution, and punishment of the offence. I think, the provisions that we have added are sufficiently strong, sufficiently stringent, without trampling upon the fundamental human rights and without violating the very fundamental principle that even the offender involved in the most heinous crime is entitled to a fair trial with substantive due processes.

Now, what have we done on this Bill? We have defined the terrorist act lifting it from the universal definition which is adopted in the United Nations Resolution. We have included funding of terrorism as crime, we have included organising a terrorist camp as crime, and we have included recruiting any person for committing a terrorist act as crime. We have placed restrictions on the bail provision. Section 167 provides for 15, 90 and 60 days. What we have done is that we have made that 30, 90 and 90 days. Since there is no amendment proposed to that I assume everybody has accepted it. Then we have said — there is some controversy here — if it is not possible to complete the investigation within the said period of 90 days, the court may if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period, extend the said period by up to 180 days. This was not in POTA, look at the POTA provision, POTA provision is a very different provision. The POTA provision said that you shall go beyond 90 days. Here we have given the power to the court, the court may if it is satisfied. Secondly, the POTA provision said, go beyond 90 days, it did not put a cap. Here we have put a cap and said, 'cannot go beyond 180 days'. We are trying to strike a balance. There will be cases, there will be some cases where the charge-sheet cannot be filed in 90 days, it might require 100 days, it might require 110, but if the investigation has progressed and there are good reasons why the prosecuting agency requires 10 days more or 15 days more, I mean, the court should have the power to consider every thing and grant them ten days. Then we have said that in a bail application the prosecutor shall be heard, I do not think anyone can complain about that provisions, which means ex parte order cannot be given and prosecutor must be given a right to say what he wants to say. And then we have said that if on a perusal of case diary or on a report made under Section 173, the court has reason to believe that the accusation is prima facie true, only in those cases the bail may be refused. Now the bail is refused under the ordinary criminal law. In case of a murder, invariably bail is refused, bail is never granted, and just because the trial goes on for three years, no one says that a person accused of murder should have a right to bail. That is the matter which the court has to weigh having regard to the case diary and the investigation report, the court will weigh the matter and say that you are accused of murder but having looked at the case diary and the report I am refusing bail. So, such an offender has to remain in jail until the trial is over. That is not an unusual provision. But the court may come to the opposite conclusion, having perused the case diary and the report, although you are accused of murder, I will let you out on bail subject to the following conditions, you shall stay here, shall report to the police station, you shall provide surety. These are not unusual provisions. I think some people thought that refusing bail is an unusual provision, but it is not. For heinous crimes, even today bail is refused until the case is completely tried and the court reaches its conclusions. So, there is nothing unusual about it. Then, Sir, we have provided that a rebuttable presumption, what is in common language called an adverse inference can be

drawn in certain cases. Now what are the cases that we have provided: where arms, explosives, or other substances were recovered from the possession of the accused and there is a reason to believe that such an arm or explosives were used in the commission of the offence. Where the very arms or where the very explosives which are used in the commission are recovered from the accused, that is one circumstance, the second circumstance is where it is proved through the evidence of an expert that fingerprints of the accused or other definite evidence such as DNA, bloodstains, (that is not there but that is a definite evidence) suggesting the involvement of the accused in the offence were found where - at the site of the offence, on the scene of the crime, not in his house, not in the village, not a hundred miles away, if you find fingerprints, bloodstains, DNA evidence at the site of the crime, in these two circumstances we say the court will draw a rebuttable presumption and under Section 4 of the Evidence Act, it is a presumption only until the contrary is proved. Why are we saying this? It is because in most cases, in criminal law, the accused can remain silent. He need not go into the box. He need not let in any evidence at all. What we are doing here is, in a terrorist crime, in one or two of these circumstances which are explained, one, where arms and explosives are recovered from the possession of the accused or where finger prints or other definitive evidence are recovered from the crime scene, we will draw this presumption, but you are at liberty to disprove this fact and, therefore, the court will, then, have to accept that it is disproved. In this case alone, we say an adverse inference should be drawn. This is not an unusual provision. This is a rule of evidence. Going back to the Evidence Act which, I think, if I remember right, if my memory is right, 1872 the rule of evidence has been there. It is not an unusual rule of evidence at all. Finally, Sir, we have incorporated a very salutary provision. To the best of our knowledge — I don't know, I may be corrected by the Law Minister or the Law Secretary later — it is the first time we are introducing this. In a prosecution under the UAPA, now, it is the executive Government which registers the case through a police officer. It is the executive Government which investigates the case through an investigating agency, namely, the police department. It is the executive Government which sanctions under section 45. Therefore, there is a fear that a vindictive or a wrong executive Government could register a case, investigate and sanction prosecution. There is a fear. Maybe, it is not a fear that is entirely justified but you can't say that it is entirely unjustified. So, what are we doing? The executive Government can register the case because no one else can register a case. The executive Government, through its agency, can investigate the case. But, before sanction is granted under 45 (1) we are interposing an independent authority which will review the entire evidence, gathered in the investigation, and then make a recommendation whether this is a fit case of prosecution. So, here, we are bringing a filter, a buffer, an independent authority who has to review the entire evidence that is gathered and, then, make a recommendation to the State Government or the Central Government, as the case may be, a fit case for sanction. I think, this is a very salutary safeguard. All sections of the House should

welcome it. This is a biggest buffer against arbitrariness which many Members spoke about. Sir, these are the features in the Bill. I know that Surinder asked why you are including 489 E. Well, I think, Arun had the answer. I told you the answer. 489 A to 489 E are one part of the whole chapter, which is dealing with counterfeit currency notes. You cannot omit that alone. Nobody is going to be charged with an offence of only 489 E. A man is charged with 489 E is most likely to be charged with the whole set of offences and all of them are either life imprisonment or imprisonment up to ten years. I don't think that is a major point. It is very unlikely that anybody will be charged with only 489 E. It is possible. Theoretically, yes, but when the sanction comes, somebody will throw it out. An independent authority will throw it out and say that this is not a case to be...

SHRI S. S. AHLUWALIA: That will not go to sanction.

SHRI P. CHIDAMBARAM: It will be for any prosecution under UAPA.

SHRI S. S. AHLUWALIA: For a Rs. 100 fine, why will it go to the sanctioning authority? If the punishment is for more than seven years, then, only it will go to the sanctioning authority. The law is like that; you know that.

SHRI P. CHIDAMBARAM: Please understand. If it is an offence under UAPA, today, we have said that under section 45, sanction is required. If it is not an offence under UAPA, if it is an offence under any other Act, the Scheduled Act we will have to be looked at to find out if there is a sanctioning provision in that Act. Let us assume for the sake of argument that 489 E does not require a sanction. It will be prosecuted in a court and the court can impose a maximum punishment of Rs. 100. What is the earth-shaking event that happens if somebody is prosecuted under 489 E and is punished for Rs. 100? Don't detract from the gravity of the situation that we are talking about. Finally, Sir, there is a question, 'why was the Bill not referred to the Standing Committee?' I think the all-party meeting on 30th November resolved that we should quickly pass the laws which are required for investigation and to strengthen the laws. That is why this meeting took place on 30th November. We have worked round the clock to draft this Bill. We have consulted the major political formations in this House and we have brought forward this Bill. If it would have gone to the Standing Committee we would not have this law until next February or, I don't know, even next July. Therefore, it is very necessary and the hon. Speaker, in his wisdom, in his discretion, decided that it need not go to the Standing Committee.

SHRI SITARAM YECHURY: What do you mean when you say that you will revisit it?

SHRI P. CHIDAMBARAM: No, no. What I said is that if anybody has got reservations, I take note of the reservations. We will see how this law works over the next 3-4 months. If any of

these reservations on the part of those who say the law is not strong enough or reservations on the part of those who say that the law is an encroachment is borne out, we can revisit the subject in 3 or 4 months. But, at the moment, what we need is to send a strong message to the country that we are united. We are acting with unity of purpose. We are making law. We are setting up an agency and we are determined to bring to book any terrorist who commits a terrorist crime. Therefore, my earnest appeal to all sections of the House is please do not press your amendments. I have taken note of your amendments. I will try to explain.

Sir, in fact, if I can quickly go through the amendments, now, if the *suo motu* power is deleted, then we go back to the CBI provision. Then, what is the difference between the NIA and the CBI? Therefore, the *suo motu* provision cannot be deleted. If the *suo motu* power for the NIA is not to be there, we go back to the CBI and Section 6 of the DSPE. So, there is no difference. Therefore, *suo motu* provision cannot be deleted.

Then, if the First Schedule is to split, I have told you the problem. If you put one Act in the Second Schedule and if, God forbid, there is a terrorist case in which the local police is trying to cover up that crime, then, that crime will never be investigated. Therefore, the Schedule cannot be split.

Then, Sir, there are four amendments given by my friend, Mr. Sitaram Yechury. I think, he must have drafted them in great haste, because, if I accept any of these amendments, the sentence does not read as a complete sentence. I can show it to you.

SHRI SITARAM YECHURY: I have given notice for amendments. Redrafting has been done by the Secretariat.

SHRI P. CHIDAMBARAM: The sentence does not read as a complete sentence. For example, if the word 'shall' is replaced with the word 'can' and if you delete the last fourteen words, the sentence does not even read as a sentence. But, I don't think that these are material.

And, finally, Mr. Raja has said that the word 'presumption' must be deleted. I will explain. The presumption is drawn only under two extraordinary circumstances — where a fingerprint is found or DNA evidence is found or arms or explosives are recovered from the possession of the accused. In such a case, I think, it is wise for the court to draw the presumption and oblige the accused to go into the box and disprove the case, rather than say, 'you can remain silent and I will then apply the test of beyond reasonable doubt.'

So, I think, Sir, all the amendments should not be pressed now. We should pass the Bill unanimously. Eternal vigilance is the price of liberty. People are looking at us. As I speak today, people are watching us. People will watch us on television tomorrow. People are asking, 'Is the Parliament of India the sentinel on the *qui vivc*? Is the Parliament of India an appropriate sentine

I to guard our liberty? We must send a message that we are united, both in purpose and in action and we will stand as a sentinel and guard the liberty and security of the people of this country. Thank you.

MR. DEPUTY CHAIRMAN: Now, we shall, first, take up the National Investigation Agency Bill, 2008. The question is:

"That the Bill to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, Security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United National, its agencies and other international organisations and for matters connected therewith or incidents thereto, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: Now, we shall take up clause-by-clause consideration of the Bill.

Clauses 2 to 5 were added to the Bill.

MR. DEPUTY CHAIRMAN: Now, we shall take up Clause 6. There are two amendments (Nos. 1 and 2) by Dr. Maitreyan.

CLAUSE-6 : Investigation of Scheduled Offences

DR. V. MAITREYAN (Tamil Nadu): Sir, I move:

That at page 3, line 16 to 19, be *deleted.*

That at page 3, line 20, the words, bracket and figure "sub-section (5)", be *deleted.*

MR. DEPUTY CHAIRMAN: Now, I shall now put amendment (Nos. 1 and 2) to vote:

Amendment Nos. 1 and 2 were negatived.

Clause 6 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now, we shall take up Clause 7. There is one amendment (No. 3) by Shri Sitaram Yechury and Shri D. Raja.

SHRI SITARAM YECHURY: Sir, with your permission, may I make one observation?

These two amendments to clause 7 and 7(a) become relevant only if the split in the Schedule is approved. What I would suggest to you is, if this is not approved, those two become infructuous. So, take the Schedule first. What I mean to say is that if the split of the Schedule is not adopted, then clauses 7 and 7(a) become infructuous. There is no point in going through voting before this. *...(Interruptions)...* May I explain to you, Sir? Amendment to clause 7, which

I moved, says, “While investigating any offence under the First Schedule of this Act...” Now, without separating the Schedules into the First Schedule and the Second Schedule, this amendment is meaningless. New clause 7(a) will be meaningful only if this House approves the split in the Schedule into the First Schedule and the Second Schedule. If the House does not approve of this split, then, clauses 7 and 7(a) automatically becomes infructuous. I would, therefore, plead with you that you put this amendment to the Schedule to vote.

SHRI P. CHIDAMBARAM: Sir, Sitaramji is asking to put the amendment No. 5 first. If the Schedule is split, then, we will see; otherwise, that amendment is not carried. So, Sir, put amendment No. 5 first. There is no problem.

MR. DEPUTY CHAIRMAN: We shall now take up the Schedule first. The Schedule stands part of the Bill. There is one amendment no. 5 by Shri Sitaram Yechury.

SHRI SITARAM YECHURY: Sir, I move:

“That at page 9, for the existing Schedule, the following be substituted, namely,-

THE FIRST SCHEDULE

The Atomic Energy Act, 1962 (33 of 1962);

The Anti-Hijacking Act, 1982 (65 of 1982);

The Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982 (66 of 1982);

The SAARC Convention on (Suppression of Terrorism) Act, 1993 (36 of 1993);

The Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002 (69 of 2002);

The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (21 of 2005)

THE SECOND SCHEDULE

The Unlawful Activities (Prevention) Act, 1967 (37 of 1967); The Offences under—

Chapter VI of the Indian Penal Code [sections 121 to 130 (both inclusive)];

Sections 489-A to 489-E (both inclusive) of the Indian Penal Code”.

The House was divided.

THE DEPUTY CHAIRMAN:

Ayes : 23

Noes : 87